

Kirkpatrick Sale: SDS and the Media

(MORE)

A Journalism Review

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**Censoring
'Topless' Radio**

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**Hellbox: Nader and
The New Republic**



Extra, Extra! Read All About It.

BY JAY LEVIN

Ms. magazine arrived in the world a year-and-a-half ago with an unprecedented flood of national publicity and immediately sold extremely well for a new magazine in most places where it appeared. Yet despite the ballyhoo, and for all the early success, would-be readers will still not find *Ms.* on the airport newsstands in New Orleans, Los Angeles or a number of other major cities. Nor can they buy it at several important retail centers throughout the South and Midwest or in one or two large supermarket chains. Clearly, an audience for the feminist magazine exists wherever women live. But just as clearly, some purchasing agents won't handle *Ms.* because they object to what it stands for, or because they have unilaterally decided that the customers they serve would object.

Ms.'s difficulties are rare but hardly unique. *Evergreen Review*, the moderately radical, *avante-garde* magazine that had to reach a New York audience or perish, tried desperately a few years ago to get on the Union News Co.'s newsstands, which dot the city's transportation centers. At one meeting with *Evergreen* representatives, William A. McCollough, the politically conservative president of the Union News parent company, Ancorp, held up an issue of the magazine with a girl on the cover draped in an American flag. "I'm not going to put out shit like this," McCollough said, hastening *Evergreen* to its grave.

For years, *Holiday* magazine was unable to penetrate the newsstands at Chicago's O'Hare airport, one of the best markets in the country for periodicals. The man who owns the newsstand concessions there, Joseph Henly, a crony of Chicago Mayor Richard Daley with a reputation for keeping

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anything critical of hizzoner off his stands, had a personal pique against *Holiday*. The magazine had consistently refused to give one of its preferential dining awards to a restaurant owned by a member of Henly's family. Only after *Holiday* changed national distributors a year-and-a-half ago, signing on with a company whose representative was on good terms with Henly, was anyone able to persuade him to let *Holiday* breach his airport bastion.

Few acts are quite as routine as the purchase of a newspaper from the corner kiosk or a magazine from a Penn Station newsstand. But the business process behind these millions of daily transactions occasionally can be as brutal and byzantine as the maneuverings in the corporate boardrooms of Louis Auchincloss. Newspapers, magazines and paperback books don't make their

way inexorably from publisher to reader. In most cases, periodicals and paperback lines must first win acceptance by one of a handful of circulation companies—New York-based corporations, primarily, such as Independent News, Kable News and Publishers Distributing Corp.—which handle national distribution for publishers, or for those publishers whose products they deem worthy. These monoliths arrange shipments to local wholesalers around the country, each of which may take into its warehouse as many as 3,000 different publications and 200 paperback titles a month, to be sorted and trucked to retail outlets. The retailer, then, must cope with the glut, with the profusion of titles competing for scant display space. At every step in this distribution system people make choices about which titles to handle and which not, thus exercising a form of editorial power as surely as the editor who spikes a story. Moreover, inefficiency and, in some instances, corruption are a constant irritant to publishers. In some cases, organized crime runs the show (see page 20). But perhaps worst of all, the system is easily abused in ways that affect what shows up on the stands.

The monopolies of the local wholesalers are a case in point. In 1957, the American News Co. shut down the magazine distribution agencies it operated in 350 U.S. cities because they were earning minimal profits. In one blow, distribution was cut off to 95,000 retail clients, and the field was left to whomever desired it. Invariably, the business fell to the competing agency in each town, often a firm that had started out delivering the local newspaper. With rare exceptions, these companies have operated ever since without competition. In fact, the U.S. and Canada are now divided up by 550 wholesalers that by and large concede one another exclusive territorial rights. Like most monopolies, the wholesalers fare very well. A distributor-

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Jay Levin is a New York reporter. His article was underwritten by a grant from the Fund for Investigative Journalism.

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In the days immediately after the Second A.J. Liebling Counter-Convention, I tended to view the event somewhat gloomily. True, more than 1,500 attended the three days of panels and workshops at the Mayflower Hotel in Washington, some coming from as far away as Montana and Hawaii. And on Saturday night, May 5, standees packed the hotel ballroom for the presentation of the 1973 A.J. Liebling Award to Homer Bigart and the panel on Watergate that followed. But for all that, the turnout by the Washington press corps struck me as disappointingly small. Likewise, the attendance by those in town for the annual meeting of the American Society of Newspaper Editors, to which Liebling II was "counter."

My disappointment was not that of a host piqued because more guests didn't show up for his party (though all members of the press corps and A.S.N.E. were individually invited). Rather, I laid this apparent lack of interest to a combination of disdain for and fear of a group of radical, quasi-radical and (alas) windy-radical working journalists gathered to discuss, among many other less alarming matters, how best to seek journalistic reform in the U.S. In particular, the subject of redistribution of power seems to spook those who ought to be most interested in it (or in at least exploring it). Yet the proposition that decision-making at a news organization is not the God-given right of ownership—a heresy much in the air during and right after Liebling I in New York last year—seemed altogether muted in Washington. Perhaps that was inevitable

COLUMN TWO

BY RICHARD POLLAK

under the torrent of Watergate, but it left me feeling pessimistic nonetheless.

Unduly so, I now think. For I have spent several hours recently at WBAI-FM listening to tapes the Pacifica station made of the Liebling II debate and much of it is far from discouraging. Indeed, the two workshops that dealt specifically with the issue of who controls the product—"Power in the Newsroom: Who Has it And How To Get It" and "The Guild and AFTRA: Can Journalists Survive on Bread and Butter Alone?"—provided more than a little optimism for anyone seriously seeking to realign the power structure of a journalistic institution.

One of the most encouraging panelists was John McCormally, the jovial editor and publisher of the *Burlington* (Iowa) *Hawk Eye*, which now has a managing editor hired only after the 20-person staff approved him. "Newspapers brave enough to try this approach will get some good input," McCormally said, adding that "when you do share power you find it a pretty gratifying experience." Susan Braudy echoed the same theme in describing how decision-making is shared at *Ms.*, where "several people who now help edit the magazine used to work on the switchboard." In Boston, the alternative weekly called *The Real Paper* is run by a board of directors elected by, responsible to and made up of the staff. In outlining how they do it, Laura Shapiro was positively manic: "We make money every week from ads and circulation. Several weeks ago we divided up the profits according to salary

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[HELLBOX]

Rosebuds to Jimmy Breslin for demonstrating conclusively on WNBC-TV that television commentators and their thoughts need not be made of plastic. Since election day last year when he began broadcasting two or three nights a week on the New York station, Breslin has entranced or infuriated viewers with a characteristic combination of outrage, wit and pugnacity packaged in a delivery of unparalleled ineptness. "I can't look at myself," he says. "It's murder."

Thousands are looking at him, however, and one reason is that, as he did when he was a columnist, Breslin tries to bring back his opinions fresh from the scene. While most of his counterparts reposed in their studios concocting even-handed banalities about John Mitchell's indictment, Breslin traveled to Judge John M. Canella's courtroom in Foley Square. That evening (May 21) he offered the following:

"... the clerk, Mr. Edward Mahon, underlined the solemnity of the day by calling out, 'God save these United States.' Mr. Mitchell's hands shook when they were unclasped. When Mitchell and one of his lawyers gave each other a clap on the back, I caught Mitchell hanging on for that little second longer. When the judge asked if the defendants would waive the reading of the indictment, John Mitchell said: 'I would waive it, your honor.' To the end, these people cling to their mechanical language. It would seem... It would appear. They not only hurt our trust in government but they are killing the passive tense."

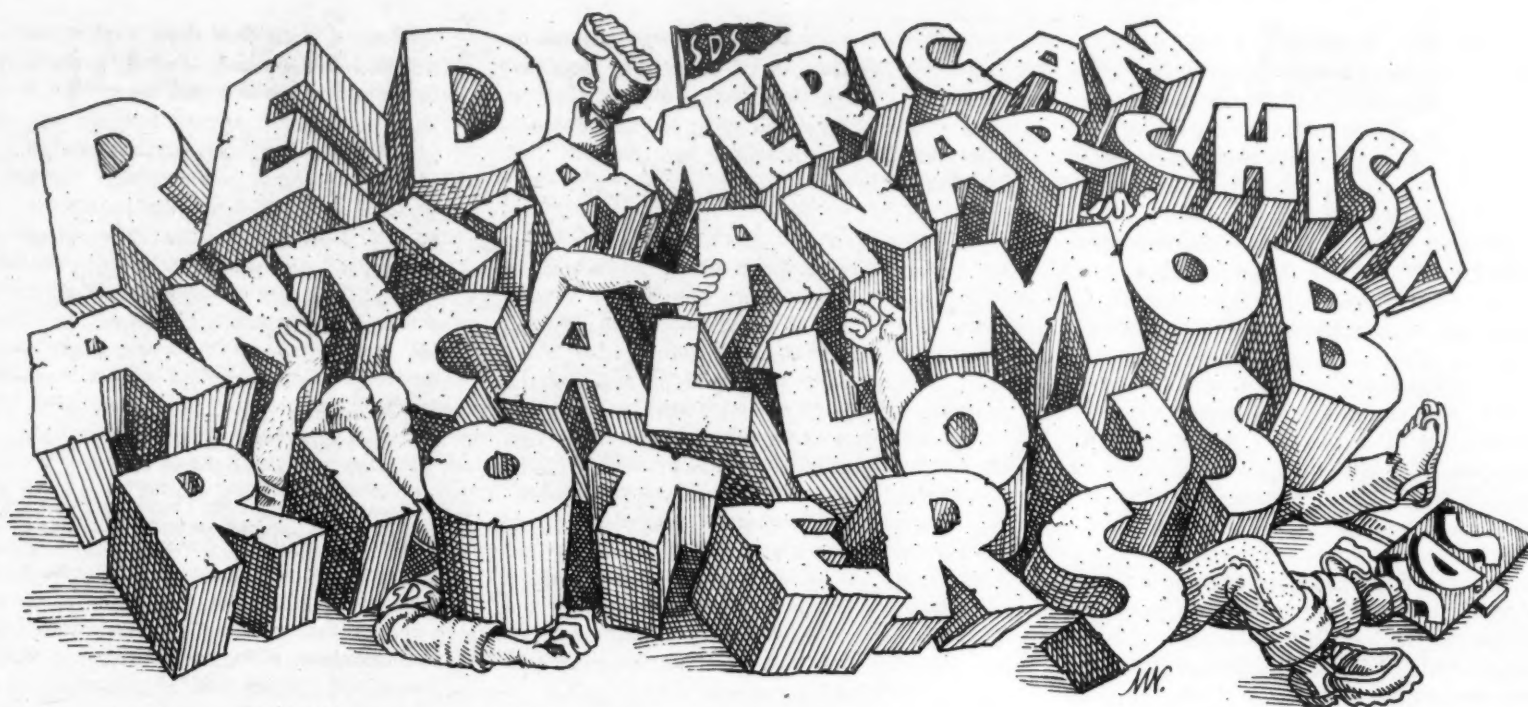
Predictably, no one is neutral about this kind of political talk on television and the mail and telephone reaction has been intense, pro and con. And on rare occasions someone demands equal time. Abe Beame got it after Breslin poked fun at the New York mayoral candidate because of his age ("In the morning the door on the porch of Gracie Mansion opens and here comes the little arm inside a bathrobe and Abe's hand starts fishing into the mailbox to see if his Social Security check came on time"). But for all Breslin's feistiness, he has encountered no censorship. "You can come on as strong as you want and no one will stop you," he says. "What's wrong with television is that everyone in it is afraid to say anything."

When we last spoke to Breslin he had just returned to New York from Washington after doing two broadcasts from the Watergate hearing room. He thought they were among the best he had done since he began seven months ago and was fuming because technical foul-ups kept both of them off the air. WNBC was politely blaming him for not understanding the logistics of remote transmissions and Breslin was impolitely suggesting that working conditions at WNBC "were worse than at the old *Journal American*." They appear to have patched things up, however, which is good for everybody—especially the viewers.

Attacking Nader

Ralph Nader has long enjoyed a special relationship with *The New Republic*. In 1966, the magazine tracked down the detective General Motors had hired to pursue the author of *Unsafe at Any Speed*. Since then, Nader and his associates have written dozens of articles for *The New Republic*, which also syndicates his columns to 79 newspapers. But last summer the rapport was temporarily disrupted with the publication of an article by Leah Young ("Chinks in Nader's Armor?"—Sept. 2) charging that Nader was "ducking" the no-fault automobile insurance issue and suggesting that he was yielding

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Myths As Eternal Truths

BY KIRKPATRICK SALE

When I started working on my history of the Students for a Democratic Society in 1969 I thought that I had no illusions about the nature of the press in America. I had once, after all, been a correspondent for two major dailies. I had written for dozens of magazines and newspapers, and I had recently quit after three years as an editor of *The New York Times Magazine*, this last affording me a glimpse, I figured, into all the sins the fourth estate was heir to. I saw articles killed to please advertisers, I saw pieces accepted purely on the basis of an author's "name" or to satisfy the publisher's whim, I had my own pieces tailored to suit this or that editorial line, and I had learned the impossibility of breaking established editors out of their established habits of mind no matter how wrong they were. I thought, with the cynicism of the insider, that I knew all about the press.

But in the course of researching the book and studying the performance of the press as it related to SDS and the radical movements of the 'sixties, I was continually surprised, and dismayed, by the extent to which the press general was guilty not only of inaccurate and remarkably hysterical reporting but of providing outright myths in the guise of Eternal Truths, of myopically or intentionally missing important stories right under its nose, and ultimately of performing as the meliorator for and protector of the powers-that-be in this country.

The media were very slow in catching on to the growth of the Left in the 'sixties, in part because they overlooked what was happening to the student segment of the civil-rights movement and in part because they carried no regular coverage of universities and failed to see what was happening on the campuses; in the morgue of *The New York Times*, for example, there is no mention of SDS at all until 1965, when the organization was already five years old, despite the fact that its headquarters and many of its conferences were in Manhattan.

The Berkeley demonstration in late 1964 was the first evidence of student discontent noticed

Kirkpatrick Sale is the author of SDS, a history of the Students for a Democratic Society, published last month by Random House.

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by the papers, and they hardly knew what to make of it. On the one hand they reacted with alarmed hysteria—the California press, for example, regularly used such words as RIOT, SIEGE, WAR, MOB, and REBELS in its headlines, and a typical AP dispatch (Oct. 2) used terms like "mob," "riot," and "throng" to describe demonstrating students. On the other, they sensed a disturbing legitimacy in those who were boldly protesting against the business-government-university coalition that suddenly seemed to be so powerful—hence the enormous coverage of what was, after all, a relatively restrained protest and the extraordinary outpouring of magazine articles (some 27 in the immediately succeeding months) and books (four within the next year). The press might not have been sure of what was going on, but it suddenly felt the phenomenon was something that ought to be paid attention to, and thus was the genie let out of the bottle.

With the escalation of the Vietnam war in February, 1965, the anti-war movement began in earnest and the first march on Washington, sponsored by SDS, took place in April. During this, the press's bewildered phase, none of the papers seemed to know just how to cover it all. But, since few reporters or editors at this point had any doubts about the war, the treatments tended to vary from

the smear (*The New York Post*: "a frenzied, one-sided anti-American show") through the sneer (*The Times* archly noted that while the protestors were picketing the White House its "principal occupant . . . was on his ranch in Texas") to the cavalier (*The Herald Tribune* called it a "civil rights rally," claimed it went for three hours instead of eight, and thought that SDS spent seven times more on it than it actually did).^{*} Again, there was the nagging feeling that the kids might really be saying something important—hence the attention at all—but the simultaneous inability to really appreciate what it was. (The closest to appreciating it were Jack Newfield, who had been an SDSer early on, in *The Nation*, and Andrew Kopkind, in *The New Republic*, both of whom wrote with some intelligence about SDS that summer.)

The high point of this period came in the fall of 1965, when a great deal of fuss began to be made over the new draft-resistance movement. It was an absolutely minuscule affair at the time, but it had chosen a tactic—draft-card burning—that fascinated press and politicians and so got attention way beyond its importance, with regular coverage on the CBS Evening News and pictures in the papers. A measure of the press's inability to understand it all, though, was the kind of fabrication that it resorted to. Evans and Novak, for example, warned on Oct. 14 of a major SDS campaign to "sabotage the war effort" and of "a calculated effort to illegally undermine high national policy" and similar blather, basing their scaremongering on a small article in an old SDS newsletter which had already been officially rejected by SDS. And then when SDS made an attempt to point this out to the *Chicago Sun-Times*, providing its reporters with the quite mild approved policy (advocating the filing for CO status and organizing anti-draft rallies on cam-

^{*}Part of the problem, one that would persist through every single other Washington march, was that these marches were held on Saturday, so the reporters filing early for the Sunday A.M. deadlines rarely stayed around to see what went on in the afternoon or to hear the major speeches delivered during the afternoon rallies. Hence, the effective reasoned, inspired presentations—Paul Potter's during this April rally, Carl Oglesby in November—almost never got covered.

pus), that paper trumpeted a totally misleading page-one banner, US-WIDE DRIVE TO BEAT DRAFT IS ORGANIZED HERE and the story was picked up by UPI and splashed nationwide. The effect was to implant a quite erroneous notion of the insurrectionary nature of SDS and its work, an impression which James Reston managed to seal a few days later with one of his on-high observations, following the White House line, that demonstrators and draft-resisters like SDSers were only helping Hanoi and "not promoting peace but postponing it."

Coverage of draft resisters and the student left declined after the fall and remained muted for the next year or so, marking a new phase for the media. An occasional sit-in or rally would get attention, but generally the press seemed to feel that the one-hundredth card-burning or campus demonstration was not as interesting as the first, and even more that the ballyhoo coverage of the fall had served largely to *expand* the influence and following of the left ("They do more with one headline," one SDSer said, "than we could do with a thousand hours at the mimeograph machine"). An elaborate and expensive campaign by SDS, for example, to hand out 500,000 copies of an "anti-draft exam" during the countrywide official Selective Service System exam in May, 1966, got almost no coverage, not even one reporter showing up for a scheduled press conference at SDS's Chicago headquarters. Even a major sit-in by University of Chicago students and a wave of anti-draft actions on a dozen other campuses failed to attract broad attention, and it took a confrontation with Secretary of Defense Robert McNamara at Harvard, where students are supposed to be better behaved, to get protests back on to the front pages nationally.

Despite the failure to explore the specifics, there was no lack of pontification about the generalities during this period and it was now that at least two dangerous myths came to be established. The first concerned "student power," which was held to be the driving force behind campus unrest and which was seen as the complaints of students against their administrations, or their living conditions, or the size of their classes, or their IBM cards. This was offered by the press (and the politicians) as the standard explanation for what was going on and it provided a very palatable picture of students as petulant and angry children. But in fact almost every major campus demonstration of the 'sixties, from Berkeley to Kent State, was *political*, not *educational*, directed primarily at the evils of the total society, its racism, its hypocrisy, its warmongering, its authoritarianism, its imperialism, and involved the university only insofar as it was complicit in those evils. About this the protest leaders were never in doubt, and made themselves clear in endless pamphlets and speeches during every action, but somehow the bulk of the press never got the message. The second myth was that of the "generation gap," this one explaining student protest as the children acting out their hatred of their parents' values by demonstrating against their college presidents. But in fact every scholarly survey of students in the 'sixties indicated that the people doing the protesting were uncommonly *close* to their parents, faulting them for insufficient gutsiness, perhaps, as youth will, but remarkably similar to them—more so than moderates and drop-outs—in political and cultural attitudes.*

Both of these myths could of course have been disproved early on had the press chosen to do

so and they might then have never attained the stature of Truths; but of course they were easy answers, for the press as much as the general public, and they allowed people to ignore the unpleasant fact that student protesters were seriously challenging the American Dream.

It was with the march on the Pentagon in October, 1967, when young Americans with rifles were called upon to defend the military headquarters of the nation against other young Americans, that attention was seriously refocused on the growing Left, only this time with none of the sympathy that characterized at least part of the earlier coverage. Some reporters by this time were, to be sure, beginning to express reservations about the war, but very few of them regarded this sort of near-insurrection as really permissible protest and none shared any of its proto-revolutionary spirit. The press treatment, therefore, was alarmist and condemnatory, thus beginning a third stage of coverage, this time trying to push the genie back into the bottle.

Faced with protests that seemed ever more threatening and with ever larger numbers, the press almost always reacted by playing up the excesses, the violence and inflated rhetoric, so as to discredit them. It can only have been this kind of motive which led the *Times* to print a front-page round-up (May 7, 1967,) presuming to find violence all over the student left at a time when the sit-in was still the biggest weapon in its arsenal. The lead of this story took a quotation from SDS National Secretary Greg Calvert—"We are working to build a guerrilla force in an urban environment"—and twisted it into a declaration of war: "The threat of violence in his words characterizes the current radicalization of the New Left." Actually there was nothing in the story to support this contention other than such things as Che Guevara posters and draft-card burnings, and even the Calvert quote was taken out of context, having originally been part of an explanation of how "young Americans who worked for the radical transformation of this society were similar in many respects to guerrilla organizers in the Third World."

A similar discrediting of the student left was intended by the publication of an article by George Kennan in the *Times Magazine* of Jan. 21, 1968, an attack from an Establishmentarian voice in the most Establishmentarian paper. This article—a scathing, if patrician, denigration of the New Left, accusing it of ignorance, childishness, lawlessness, and "a selfishness, a hardheartedness, a callousness, an irresponsibility, an indifference to the feelings of others," and similar unfounded nonsense—drew a large response, and the magazine's editor, Lewis Bergman, pushed to have it expanded into a book, which very readily appeared in September of that year as *Democracy and the Student Left*. This sort of thing is not happenstance: It is the response, subtle and decorous but quite potent, by threatened institutions against what they see as a real or potential danger.

By the time of the Columbia University



uprising of April-May, 1968, therefore, the press and much of the society was ready to regard student disruptions in the darkest light, and that is exactly the kind the press then shed. First, through myopia: while Columbia was going on, there was taking place at other campuses in the country the first mass strike since the 1930s and the largest student strike in the history of the country, but practically no newspaper or magazine reported that. Second, through ineptness: the Columbia events were consistently misreported and distorted, most notably by the *Times*,* to the point where even the moderate U.S. Student Press Association was moved to announce:

The *Times*' treatment of the Columbia protest indicates clearly the need for an independent, tough college press. The commercial press just isn't going to report what is really happening on college campuses.

Finally, through hysteria: papers professed to see great evils in the students, though few in the administration or police, and the editorials swelled to a cacaphony of fear and hatred, with the *Times*, for example, calling SDS a "rule-or-ruin" minority which "substituted dictatorship by temper tantrum for undergraduate democracy," *Fortune* warning darkly that SDS was "acting out a revolution" and pompous old *Barron's* seeing a "revolutionary movement which aims to seize first the universities and then the industries of America."

This kind of media coverage helped to set the tone for the dozens of laws directed against student protesters, for the successful law-and-order campaign of Richard Nixon, and for the growing operations of repression—surveillance, infiltration, wire-tapping, pot busts, false arrests, entrapment, and so on—then being escalated by the Federal government against the Left. Though the press was not the only one to set this tone, it nonetheless bore a heavy responsibility for much of it, a shameful legacy indeed.

(And even the process of repression itself was poorly covered. With the exception of a few pieces—the *Times*, May 5, 1969, and March 28, 1971; *The New York Review*, April 22, 1971; *Newsweek*, May 31, 1971, and *The Nation*, Jan. 3, 1972—there was little notice of the kind of campaign Nixon and Agnew were mounting against the Left, despite the recurring evidence provided by the underground press and the radical groups themselves. Not until the Watergate scandal broke and the non-radicals were also seen to be victims of this machinery did *The Washington Post*—Carl Bernstein and Bob Woodward, May 17, 1973—and the *Times*—Seymour Hersh, May 20 and 21—begin presenting a fuller, though not yet complete, picture of what was happening back in 1969 and '70.)

And the beat went on. The 1968 Democratic Convention in Chicago was covered in much the same way, though here television was most important, with great emphasis upon the disruption and "anarchy" of the protesters—and lest any newsman retort that "we had to cover the story," the fact is that the Miami Beach convention four years later was far more violent (more protesters by at least a third, more disruption of the proceedings, more tear gas and cops, and twice as many arrests, 1220 to 668) and it did not get reported that way. The demonstrations in the spring of 1969 were similarly hysterical, the media salivating over the few violent demonstrations and ignoring the peaceful, somehow picturing the beaten and bloodied students as the aggressors, turning that photograph

*E.G., Watts, et. al., *Journal of Counseling Psychology*, No. 1, 1969, and Richard Flacks, *Journal of Social Issues*, July, 1967.

*For evidence, see *Columbia Spectator*, April 27 and May 10; *Village Voice*, May 2 and May 9, and Jack Newfield, *Dutton Review*, Nov. 1, 1970.

of armed blacks at Cornell into the suggestion of gun-shooting killers on the loose in academia without conveying that the students had armed themselves in self-defense, that they were leaving a building after a negotiated settlement, and that the guns were not even loaded. (A more local, but serious, example of distortion was the *Chicago Tribune's* campaign against University of Chicago "student radicals," which at one point listed the name of assistant professor—and early SDSer—Dick Flacks among those said to be behind all the trouble, after which some unknown citizen invaded Flacks' office and beat him up severely.) Even the tiny "work-in" during the summer of 1969 was blown out of proportion, with scare stories about infiltration and sabotage in defense plants and plans for FBI agents behind every lathe, for the press utterly failed to realize this "work-in" was being run by the small Progressive Party offshoot of SDS which had declared itself *against* violence and subversion and only wanted to get out and rub shoulders with the workers. (One exception during this period: a calm and thoughtful series of interviews by Roger Vaughan in *Life* magazine—Oct. 18, 1968—marred only by a sappy, scary introduction.)

Amid all this hysteria, SDS as an organization collapsed, in June of 1969, and one of the many reasons had to do with the effect of this press coverage, or rather the reaction to this press coverage by students and SDSers. On the one hand, many students shied away from an SDS increasingly made to seem violent and mindless, resulting in a decline in membership and effect during the 1968-69 school year; on the other hand, much of the SDS leadership accepted the overblown image of SDS presented by the media and began to see themselves as a serious revolutionary force whose importance was to be measured, as the press did, by the amount of violence it created, resulting in a rush to revolution that left much of the student constituency behind and led, ultimately to the Weathermen. Perhaps the student readers of the press should have been wiser, should not have allowed themselves to be sucked into the version of reality as presented by the media, but it is one measure of the true pervasiveness of the press that it was able to affect so strongly even those who denounced it.

After the frenzy, second thoughts. The

press realized at some point that its attentions were in some sense fanning the flames which it wanted to dampen, and a final phase began in which press coverage emphasized "the death of the student movement" and downplayed many of the events which in earlier years would have won front-page treatment. Obvious exceptions had to be made when events were too momentous or the Nixon regime too egregious—the Cambodia/Kent State protests in May, 1970, the Mayday demonstration in 1971, the Southern University murders in 1972—but for the most part the press successfully curtailed its coverage of the Left. Even the treatment of May, 1970, extensive though it was, failed totally to give the populace any real idea of the dimensions of the social upheaval, the most violent outbreak of public disaffection in this century, perhaps since the Civil War, with upwards of a million people taking part in open political disruption—including bombings at the rate of something like *six a day* during May, a fact which went almost completely unreported—and with the government forced to use soldiers and police in almost every state of the union to suppress it. Clark Kerr later called it "the climax of dissent, disruption and tragedy in all American history to date," but you'd hardly know it from the papers.

It's hard to say whether this downplaying was totally conscious, as was true with the similar downplaying of ghetto rebellions after the Kerner Commission Report in 1968, in order to keep the wildfire from spreading, or whether the press was unconsciously playing out its role as a social meliorator, editors persuading themselves that the threatening was also the unnewsworthy. Either way, it had its effect. It served to blunt the political impact of protest and thus gradually diminish the instances of it—if nobody's listening, what's the point?—and it helped to persuade individual groups that they were isolated and working in a void, hastening the processes of atomization and disintegration. In the days when a protest was news not only locally but nationwide, the newspapers were very effective membership chairmen and the television programs the best energy-chargers; but when a protest began to seem as effective as banging your head against a closet wall in a deserted house, some interest and energy was bound to flag.

This phase continues into the present. If

students at Queens College had disrupted Army and Navy recruiters and chased them off the campus in 1966, the coverage would have been extensive and the editorials enraged; when it happened last December 5, there wasn't a word about it in the *Times*. If 8,000 people had turned out to heckle Lady Bird Johnson after a Vietnam escalation in 1968, clashing with police, setting fire to a car and wastebaskets, and trashing cars and shop windows, that would have rated front-page and prime-time coverage across the land; when all that happened in a demonstration against Pat Nixon last Oct. 31, it got a bare mention on the national news programs and four paragraphs in the bottom corner of page 26 in the *Times*. If the Weathermen had bombed a police car in Queens in 1969, that would have been played up to discredit the violent Left, but when the Weathermen (or some free-lancers using that name) demolished that cop car in protest over the 10-year-old's killing in Jamaica on May 18, the press gave it scant attention, the *Times* account not even mentioning the Weathermen in its headlines and treating the whole thing in eight paragraphs as a routine cop story. And so on—with a regularity that certainly appears to be deliberate.

Obviously the course of radicalism in the 'sixties was not wholly determined by what the press did and did not do, and it would be unfair to saddle the media with blame beyond what they deserve. Still, though limited, the effect of the press was certainly important, and it is not comforting to realize that that effect was demonstrated largely through selective reporting, the unfortunate confusion of myths and reality, and an uncertainty of vision that resulted in everything from bewilderment to hysteria. It is even less comforting to realize that the "free-and-independent" press was above all providing a kind of movable fulcrum for the social see-saw, keeping it from tipping too far one way or the other, and thereby serving, consciously or not, the interests of the System-as-is.

I came to this realization, as I said, with surprise and dismay, not with any sense of glee or malice. I hope others may do so too—the record is there, "You can look it up"—for it seems to me that this is where we have to start in any understanding of the true role of the press in mid-century America.

Aural Sex and the FCC

BY NEWTON LAMSON

The bloodless mastectomy performed by the FCC on "topless" radio shows—as well as its surgical by-play on First Amendment rights—has gone unchallenged by the group it affects the most, the broadcast industry. Despite getting hit in the change purse and despite what many feel was an obvious FCC decision to take a stroll on the wild side of the censorship line, the National Association of Broadcasters and the stations directly involved rather eagerly acquiesced to the FCC's notions on truth and beauty in radio shows, leaving it to two public interest groups and [MORE] to make the only formal protests of the Commission's methods and maneuverings.

And the FCC was clearly maneuvering. What happened between mid-March and mid-May leaves no doubt the FCC knew exactly what it was

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**As if the
commissioners
did not have
enough to worry
about, they
now seem determined to
ban from the
air advice
on how best to
use peanut butter.**

about when it set out to launder the daytime talk shows. The objects of the Commission's collective spleen were the increasingly popular "women's" call-in programs. Initially, these broadcasts were limited to the normal, garden varieties of sex and sexual problems; but, with success, the pasties came off, and the talk show hosts (most were men) ventured into the more arcane areas of sexual behavior. Good taste was never a problem—it just wasn't part of the mix. The overall tone of these shows was leering, smirking, and pretty voyeuristic for an audio-only medium. But the more *osé* topless radio became, the more the protest letters would pile up in Congress and over at the FCC—in late March, *The New York Times* reported that 3,000 such letters had been received in the preceding three months.

Under pressure from the Congress, the FCC began to move, and it moved rapidly and with devastating effectiveness. Around March 20, the commission listened to a 25-minute composite tape

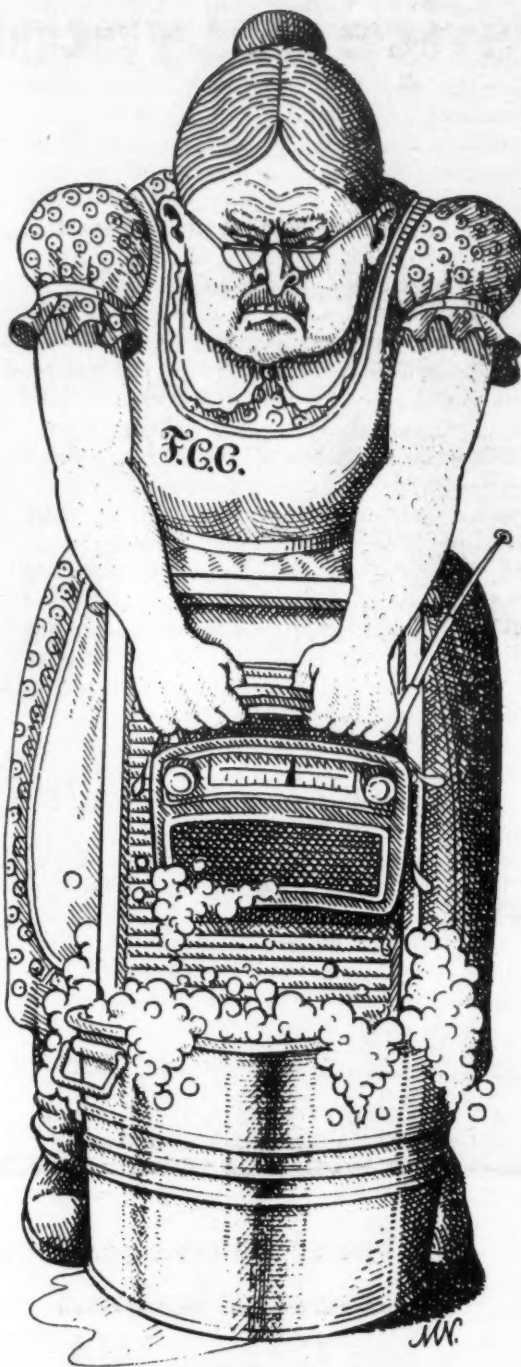
of "titillating" material broadcast during a number of topless programs (Commissioner Nicholas Johnson walked out of that listening session because, as he later put it, he did not believe that the commission "... should sit as a program review committee—imposing its tastes upon both broadcasters and the American public."), and on March 22 it ordered an administrative inquiry into whether Federal obscenity laws were being violated by the talk shows or by a handful of TV stations which were running X-rated movies.

But the commission still wasn't taking any chances—it set the broadcasters up for a one-two combination by delaying the announcement of the inquiry until Tuesday, March 27, the day before FCC Chairman Dean Burch was to give the wind-up speech at the National Association of Broadcasters convention in Washington. By the time Burch got around to throwing his punch at the Wednesday luncheon, his opponent was already on the ropes. The NAB Board of Directors had, on Tuesday afternoon after the inquiry announcement, hastily passed a resolution condemning "tasteless and vulgar program content" and directing the Radio and Television Code Boards to move to assure compliance with code standards. If there was a soul in the house still entertaining half-hearted thoughts of defiance after the NAB move, Burch's speech must have been the moral *coup de grace*.

He warmed to his topic by castigating "... the prurient trash that is the stock-in-trade of the sex-oriented radio talk show, complete with the suggestive, coaxing, pear-shaped tones of the smut-hustling host." Then came the real body blows. He found it ironic that this "fad" arose at a time when journalists of all media are looking for "... greater safeguards against intrusions into the essential processes of their professional craft.... broadcasters cannot ignore this problem.... You're not buying time, you're buying eventual grief—and you will all end up paying the price for a handful of your brethren who are deliberately thumbing their noses at good taste and good sense."

Next came a reminder of the fact that the broadcast industry is trying to wriggle out from under the regulatory thumb by seeking longer license terms, selective de-regulation, and less interference in the treatment of controversial programs. At the very close of his speech, Burch, sounding more and more like Don Corleone, made those assembled a real promise they couldn't (and didn't) refuse: "We are dealing with a crisis in the health of the broadcasting industry and the cure requires the delicate hands of a surgeon. The type of surgery that you can best prescribe—and perform—within your own ranks. I fear as you do the hands of the government that will be called upon as a last resort—the stubby, gnarled bureaucratic hands that belong to a third-string catcher in the minor leagues, not on a public interest physician. I know I speak for millions of Americans when I wish you the very best of health." Nobody coughed.

On April 11, the FCC tied it up with ribbons by sending Sonderling Broadcasting Corporation's WGLD-FM in Oak Park, Ill., a notice of apparent liability for a forfeiture—under Section 503(b)(1)(E) of the Communications Act of 1934—in the amount of \$2,000 for broadcasting allegedly obscene material on Feb. 21 and 23. In its letter of notice to Sonderling, the commission went to great lengths to justify its action and to clarify its intentions. At issue, it said, was not censorship, but a violation of the Federal Criminal Code (18 U.S.C. Section 1464), whereby the programs aired were "obscene and indecent." It was acting "... to prevent the erosion of the broadcast system in this country ..." and it raised the spectre of an increas-



ing number of stations getting on the topless bandwagon for competitive reasons, with spiraling adverse effects for millions of listeners.

The letter further stated that the commission recognized it was treading in the First Amendment area and that it welcomed and urged judicial review, i.e., a test case. Commissioner Johnson dissented, arguing that, while he himself found the material in question "extremely distasteful," he was reluctant to engage in any form of censorship or program review—especially one which would have a "chilling effect" of "enormous proportions on all forms of broadcast expression."

"Chilling," as it turns out, is an anemic adjective for what happened in the wake of the Burch speech. Topless radio simply withered and disappeared. As for Sonderling, the notice of forfeiture was pure overkill—the NAB resolution and the Burch speech prodded them on March 28, the day of Burch's address, to decree that sex-related subjects be banned from "Femme Forum," the program that was the subject of the FCC complaint. Why this unseemly haste to get off the lucrative topless merry-go-round? In short, license renewal. Burch walked around it in his speech, but Johnson

said it directly in his dissent from the Sonderling notice: "... any FCC pronouncement against a particular kind of programming will cast a pall over the entire broadcasting industry—not so much because these broadcasters fear the imposition of fines, but, rather, because they fear the potential loss of their highly profitable broadcast licenses."

No one in broadcasting, despite the apparent First Amendment incursions, was willing at this delicate juncture—when so much is at stake in terms of new legislation before Congress—to rock the boat by taking the FCC up on its invitation to seek judicial review by defending the right to continue broadcasting, of all things, smut. And, indeed, smut appears to be what the FCC has on that 25-minute composite tape, which apparently served as the basis for its decision to launch the administrative inquiry. Only two excerpts have been published thus far, both in the letter of notice to Sonderling. In the first excerpt, the topic was oral sex:

Female Listener: ... of course I had a few hangups at first about — in regard to this, but you know what we did — I have a craving for peanut butter all that time so I used to spread this on my husband's privates and after a while, I mean, I didn't even need the peanut butter anymore.

Announcer: (Laughs) Peanut butter, huh?

Listener: Right. Oh, we can try anything — you know — any, any of these women that have called and they have, you know, hangups about this, I mean they should try their favorite — you know like — uh. ...

Announcer: Whipped cream, marshmallow, ...

Listener: You know, I mean, it's a little messy but outside of that it's great. ...

[MORE], when it first heard of the existence of the tape in March, requested that the full text of the tape be disclosed in keeping with the Freedom of Information Act. This demand was denied because the material, the FCC claimed, is "part of an investigatory file." With Thomas R. Asher of the Media Access Project acting as counsel, [MORE] on April 17 formally petitioned the FCC to release the tape and threatened to sue if the request were denied. But *Broadcasting* magazine has learned that on May 16 the Commission voted 4-3 to release the tape with the call letters of the stations which aired the programs deleted.

More importantly, two public interest groups—the Illinois Citizens Committee for Broadcasting and the Illinois chapter of the American Civil Liberties Union—have done what Sonderling and other NAB members have failed to do. Requesting intervenor status in the Sonderling case, they have petitioned the FCC to withdraw the forfeiture notice and return the \$2,000 Sonderling had tamely ponied up. In addition, the petition, which, like [MORE]'s, was drawn up by the Media Access Project, demanded that the FCC terminate its administrative inquiry and retract and disavow Chairman Burch's speech before the NAB.

The petitioners argue that: (1) The commission exceeds its statutory authority in attempting to both investigate and enforce violations of criminal law—a function that properly falls to the Justice Department; (2) the statutes and regulations involved are unconstitutionally vague and overly broad; (3) the commission actions constitute in both effect and intent censorship; (4) the FCC stand violates public interest standards governing its regulation of broadcasting. As in the [MORE]-initiated petition, a suit was threatened if the matter was not resolved to the satisfaction of the petitioners, and it is clear that, almost as a matter of course, this one will wind up in the courts.

Plantation Justice in Lynchburg

BY MICHAEL L. DORMAN



Shortly after 7 P.M. on Dec. 5, 1962, Annie Lee Carter, a white, 59-year-old spinster, left her apartment in Lynchburg, Va., and began walking to a prayer meeting at a Baptist church. Rain was falling and, despite the hour, the streets seemed almost deserted. When Miss Carter got within half a block of the church, she later reported, someone grabbed her from behind, dragged her beneath the limbs of a nearby fir tree and raped her.

The attack touched off a manhunt described as the most intensive in the history of Lynchburg, a city of 55,000 persons in the foothills of the Blue Ridge mountains. Miss Carter was able to provide only a vague description of her assailant, saying he was "a Negro with big ears." Nonetheless, three days after the attack, the police arrested Thomas Carlton Wansley and charged him with the crime. Wansley was 17 years old, short, slender and black. He had never before been in trouble with the law. His IQ had been calculated at somewhere between 71 and 78, a range described as "mentally defective." He had dropped out of school after failing the seventh grade for the second time and had taken an \$18-a-week job as a dishwasher at a small restaurant.

Wansley's arrest precipitated what some observers, including a federal judge involved in the case, consider one of the most flagrant examples of trial by newspaper in recent American history. As one result, Wansley has spent more than ten years behind bars—part of the time under a death sentence. The case is still in the courts at this time. *Michael L. Dorman, a former newspaper reporter and editor, is the author of Payoff: The Role Of Organized Crime In American Politics.*

A local newspaper campaign helped put 17-year-old Thomas Wansley, black, in jail for rape in 1962 and kept him there until early this year

writing, chiefly because of the behavior of Lynchburg's two daily newspapers, the morning *News* and the evening *Advance*.

The dailies are jointly owned by the family of the late Carter Glass, the former Virginia senator who served as Woodrow Wilson's Treasury Secretary. Glass, known as "the Unreconstructed Rebel" and "the Father of the Federal Reserve System," ruled Lynchburg as an oligarchy for more than four decades. And since his death in 1946, his descendants have kept Lynchburg's power structure conservative and segregationist.

At the time of Wansley's arrest, the *News* and *Advance* were run by Glass's grandson, Carter Glass 3rd, who held the title of general manager. Under his leadership, the papers were openly racist

in both their news and editorial columns. Civil rights leaders were regularly branded as "agitators." The accomplishments of local blacks, if mentioned at all, were dismissed in a few lines. But crimes committed by blacks were given extensive play. The deaths of local blacks, no matter how prominent, could not find their way into the papers' obituary columns. They were noted only if paid classified ads were bought by funeral directors.

The Wansley case—representing as it did the classic theme of a black accused of raping a southern white woman—prompted extraordinary news coverage even by previous Lynchburg standards. Shortly after the attack, but before Wansley's arrest, the *News* carried a story warning Lynchburg women against walking the streets alone after dark. It quoted a police captain who described Miss Carter's assailant as "a maniac" and said: "He must be caught before something more horrible happens." By that time, police were also attributing to Miss Carter's unknown attacker two previous unsolved cases—the reported rape of a Japanese-American woman and an attempted rape of a white woman.

When Wansley was arrested, the *News* spread stories and pictures on his capture across eight columns, with little pretense that he was presumed innocent until convicted. A bold-face box accompanying the main news story began: "Commonwealth Attorney Royston Jester 3rd, who has worked unceasingly with police in their search for the Negro rapist that recently terrorized the city, commended Police Department efforts following the arrest of Thomas Carlton Wansley Saturday afternoon. Jester said: 'I am sure I express the

heartfelt thanks of all the citizens of Lynchburg for the accomplishment of the Police Department in solving this horrible series of crimes recently committed upon several women of this community." The main news story also assumed Wansley's guilt, stating clearly unproved allegations as facts. One sentence referring to the assault on Miss Carter, for example, said that Wansley "held a knife to the throat of the middle-aged woman with a worded threat to kill her if she made a sound." Coverage by the *Advance* followed the pattern set by its sister paper. It published a picture of Wansley with a bold-face caption that said bluntly: RAPIST CAUGHT.

Following his arrest, Wansley was questioned intensively for five hours without being allowed to call his family or a lawyer. During that period, police claimed, he confessed committing the two alleged rapes and the attempted rape. Wansley denies the claim. He insists he told the police he had committed no crime, that he knew nothing about the rape of Miss Carter or the attempted rape of the other white woman. He conceded having sexual relations with the Japanese-American woman, Mrs. Kyoko Fleshman, but maintained she had consented.

Since Wansley was only 17, he was originally handled as a juvenile and placed under the jurisdiction of Lynchburg's Juvenile and Domestic Relations Court. After being questioned by the police, he was jailed and interrogated further by the city's chief juvenile probation officer, Lee A. Read. Under Virginia law, Read's position toward Wansley was supposed to be parallel to that of a parent; Wansley was considered under his protection. Read telephoned Wansley's mother and summoned her to the jail, where he explained the three charges. Later, when Wansley's mother was permitted to see her son in Read's presence, she asked during a long conversation: "Buddy, did you do it?" Wansley replied: "Yes." He contends that his answer referred only to a question on whether he had sexual relations with Mrs. Fleshman. But the prosecution later maintained in court that the answer referred to all the charges against him. And, despite Read's semi-parental role in the case, his account of the incident was admitted in evidence against Wansley.

The contention that Wansley had confessed to all the crimes was accepted and published as fact by the Lynchburg newspapers. They referred to him repeatedly as a "confessed rapist" or "the Negro rapist." When Wansley appeared in court for a preliminary hearing, the *News* reported that he was confronted there "by one of his women victims." (Emphasis added.)

Although Wansley was a juvenile, he was denied the right to be tried as such. After a hearing, Juvenile Court Judge Earl Wingo—giving no reason for the decision—ruled that Wansley would have to stand trial as an adult in Lynchburg Corporation Court. The decision was crucial, since it meant that, if convicted of the rape charges, Wansley could be sentenced to death. If tried as a juvenile, the most severe punishment he could have received would have been confinement in a reformatory until he reached 21.

Wansley was indicted in January, 1963, on charges of raping Miss Carter and Mrs. Fleshman and of stealing Miss Carter's purse, containing twelve cents and two bus tokens. The charge of attempted rape of a third woman was ultimately dismissed. Reuben Lawson, a black attorney from Roanoke, Va., became Wansley's defense lawyer—the first of several who would eventually handle the case.

On Feb. 8, 1963, two months after his



arrest, Wansley went on trial before Corporation Court Judge O. Raymond Cundiff on the charges of raping and robbing Miss Carter. No court stenographer was present to record the proceedings. Lawson argued that it would be unconscionable to try a death-penalty case without a stenographer, since the absence of a transcript would severely impede any appeal of a possible conviction, but Judge Cundiff overruled his objection. An all-white, all-male jury was quickly chosen.

Miss Carter testified in detail about the rape and robbery. But, when asked if she could identify Wansley as her assailant, she admitted she could not. She said he "looked like" the attacker, but that she was "not too sure." Policemen testified that Wansley had confessed the crimes—a contention disputed by Lawson. Aside from the contested confession, no evidence was presented to connect Wansley with the crimes. Wansley did not testify.

Commonwealth Attorney Jester told the jurors in his summation that, if they failed to convict Wansley and sentence him to death, it would mean Lynchburg residents "can't walk safely upon the public streets." The jury deliberated for an hour and 41 minutes, then gave Jester the verdict he had sought. It convicted Wansley of both charges—sentencing him to death in the rape case and twenty years in prison in the robbery case. Judge Cundiff scheduled Wansley's execution in Virginia's electric chair for June 7, 1963. The entire trial had taken less than a day.

The following week Wansley was tried on the charge of raping Mrs. Fleshman, a mother of four. Mrs. Fleshman testified that he had raped her in the bedroom of her home. Although she contended she had tried to resist him, she conceded that two of her children had remained asleep beside her throughout the purported attack. Wansley took the stand to testify that he had known Mrs. Fleshman for some time and that she had readily consented to have intercourse with him. He said that, after having relations with him, Mrs. Fleshman asked him to repair a broken slat in her bed, which he said he did. Following that, he testified, the two of them sat and talked in her kitchen for more than an hour. When he left he promised to return in a

few days with a package of her favorite cigarettes, he said.

The second trial was also heard by an all-male, all-white jury that was asked to render a death sentence. Judge Cundiff, in his instructions to the jurors, cautioned them that Wansley could be freed on parole if they gave him any sentence less than death. They quickly returned with a verdict of guilty and a sentence of death.

Defense attorney Lawson died before he could file any appeals. By that time, Dr. Martin Luther King, Jr., had taken an interest in the case. He asked New York civil-liberties lawyer William M. Kunstler, who often represented Dr. King and other civil-rights leaders, to become Wansley's attorney. Kunstler agreed and was joined as co-counsel by Philip Hirschkop, a civil-liberties lawyer from Alexandria, Va., and Charles Mangum, a Lynchburg attorney. All volunteered to serve without fees. They filed appeals of all three convictions with the Virginia Supreme Court. Wansley's scheduled execution was stayed by the appeals. Meanwhile, he was kept in the state prison at Richmond.

Kunstler's entry into the case set off a concentrated campaign of vilification in the *News* and *Advance*. The campaign centered on what the newspapers claimed was Kunstler's record of connection "with Communist-front organizations and efforts." On Aug. 31, 1964, after Kunstler had appeared at a Lynchburg rally intended to raise funds to pay Wansley's court costs, the *Advance* carried a lengthy story headlined: KUNSTLER HAS RECORD OF COMMIE FRONT LINKS. The story began:

William M. Kunstler, New York attorney who spoke here Sunday in behalf of the Wansley Defense Fund, has on numerous occasions been linked with Communist-front organizations and efforts. Information into the more recent activities of Kunstler has been made available from the files of the House Committee on Un-American Activities through Rep. William M. Tuck of Virginia's Fifth District and a member of the committee.

Additional sources of information cited in the

article included an American Legion publication, *Firing Line*, and a self-styled "Americanism" organization in Port Chester, N.Y., calling itself the Citizens Alert Committee. Among other allegations made against Kunstler in the story, which stretched more than 26 column inches, were the following:

On June 20, 1960, Kunstler's name appeared as one of the signers of an advertisement in *The New York Times* asking clemency for Morton Sobell, still serving a 30-year federal prison sentence for espionage....

On April 21, 1961, Kunstler was a speaker at the "Rally to Abolish the House Un-American Activities Committee" held in New York....

In the March 1962 issue of *The Southern Patriot* (Page 4) a photograph showed Kunstler and other individuals at a reception in New York.... *The Southern Patriot* on June 17, 1947, was tagged a Communist-front publication by the House Committee on Un-American Activities.... The photograph's caption identified Kunstler as an American Civil Liberties Union lawyer who handles many southern civil rights cases. The House of Representatives on Jan. 17, 1931, cited the American Civil Liberties Union as "closely affiliated with the Communist movement in the United States and fully 90% of its efforts are on behalf of Communists who have come into difficulty with the law."

The Congressional Record, May 1, 1962, listed Kunstler as among the signers of *The New York Times* advertisement, Feb. 22, 1962, attacking the House Committee on Un-American Activities and seeking its "abolition." Interestingly, that advertisement was photographically reproduced and published in the Mar. 4, 1962, issue of *The Worker*....

The article went on to cite as "evidence" against Kunstler the fact that his wife had served as Westchester County, N.Y., coordinator of a civil-rights march on Washington. In virtually every subsequent news story dealing with the case, the *News* and *Advance* inserted a sentence—usually in bold-faced type—that said: "Kunstler has been linked on numerous occasions with Communist-front organizations and efforts." Beyond that, almost any time Kunstler's name appeared on the Associated Press wires in connection with any other case, the papers made it a point to carry the story with an editor's note pointing out that he was Wansley's lawyer and repeating the Communist-front allegations. Sometimes, the wire story would contain only a single obscure reference to Kunstler and the editor's note would run several times as long as his mention in the story.

One *Advance* article, for example, bore a three-column head that read: WANSLEY LAWYER DEFENDS SNCC ON CHARGES OF PLANNING RIOTS. The story carried a three-paragraph, bold-face preface that began: "(Editor's note—William Kunstler of New York, mentioned in the story below, is an attorney for Lynchburg Negro Thomas Carlton Wansley....)" The preface went on to say that Wansley was a "convicted rapist" and repeated the Communist-front charge against Kunstler. The AP story that followed, which was 11 paragraphs long, concerned a Nashville federal court hearing in which the Student Nonviolent Coordinating Committee (SNCC) was challenging Tennessee anti-riot laws. It contained only one sentence, in the ninth paragraph, referring to a question asked by Kunstler—who represented SNCC.

Another *Advance* story, running 14 paragraphs, concerned the late Rep. Adam Clayton Powell's fight against being denied his House seat. Kunstler, one of Powell's several lawyers, was mentioned in only two sentences near the story's end. But the article contained a two-paragraph, bold-face editor's note describing his role in the Wansley case and the Communist-front allegations. When Kunstler entered the case of the late Jack

Ruby after Ruby had been convicted of murdering Lee Harvey Oswald, the *News* wrote its own 18-inch story, headlined: WANSLEY'S LAWYER WOULD REPRESENT OSWALD'S SLAYER. The article began: "The attorney of a twice-convicted Lynchburg rapist is in Dallas in an effort to represent Jack Ruby in an upcoming sanity hearing for the man who killed the assassin of President Kennedy." Again, the story repeated the Communist-front charges.

While the Lynchburg newspapers continued their attacks on Kunstler and Wansley, the Virginia Supreme Court overturned Wansley's convictions on Sept. 11, 1964. The court ruled that Judge Cundiff had violated Wansley's rights in both the Carter and Fleshman cases. In the Carter case, it held that Cundiff had improperly jeopardized Wansley's right to an appeal by refusing to have a court stenographer present during the trial. In the Fleshman case, the court ruled that Cundiff had given unfair instructions to the jurors when he told them Wansley would be eligible for parole unless sentenced to death. The appeals court returned the cases to Cundiff's court for retrial.

Although the appeals court decision concerned substantial issues, the Lynchburg newspapers attributed the ruling to mere "procedural errors." The *Advance*, for example, reported: "Wansley's appeals to the state court had centered more on legal technicalities than on his guilt or innocence." When the cases were returned to Lynchburg, the prosecution ultimately decided to dismiss the charge that Wansley had raped Mrs. Fleshman. That left him facing only the charges of raping and robbing Miss Carter. Despite the reversal of the convictions and the dismissal of the Fleshman case, the *News* and *Advance* continued to call him a "twice-convicted rapist." Since Wansley then stood convicted of nothing, his lawyers asked Cundiff to release him on bail while awaiting retrial on the Carter charges. Cundiff refused, although he had previously released on bail a white man convicted of raping a Negro. He explained the white man's release by saying: "That was statutory rape of a prostitute." The so-called "prostitute" to whom he referred was 11 years old.

Wansley's lawyers also asked Cundiff to transfer the retrial to another Virginia city on the ground that the Lynchburg papers' coverage of the case had been so prejudicial he could not get a fair trial there. In support of their change-of-venue motion, they submitted affidavits from 164 Lynchburg residents who said the "extraordinary amount of inflammatory and prejudicial" coverage made an impartial trial impossible in the city. Cundiff conducted a hearing on the motion in August, 1965. Among the witnesses subpoenaed by the defense were Carter Glass 3rd and several editors and reporters of the *News* and *Advance*. All agreed that the published allegations against Kunstler were based on information from Glass' personal files. Kunstler's questioning of Glass contained the following exchanges:

Q. What brought me to your attention?

A. Your Communist and Communist-front activities.

Q. Why me?

A. Because I have accumulated a file on every Communist and Communist-front individual that appeared in our newspaper.... I am interested in the background of all Communists and Communist-fronters.

Q. Are you stating I am a Communist?

A. I said I am interested in the Communists.

Q. If you think I am a Communist, say so honestly.

A. I don't know, sir. I haven't seen the records of the Communist Party.

Q. All right, sir. Neither have I, so we're even. If I am not a Communist, I must be a Communist sympathizer, is that correct?

A. Your record shows that conclusively to me....

Q. Do you have any information personally about me other than what you say you got from reading *The Daily Worker*—which I don't read but you obviously do—or from the congressional reports, which I do read, or from the files or reports of your congressman or the Senate Internal Security Committee? Outside of these hearsay reports, do you have anything in your own knowledge about me?

A. I don't know you, no sir.

Q. You have never investigated me yourself, have you?

A. I have not, sir.

Q. You are relying on what *The Daily Worker* says, are you not, about me?

A. In part.

Q. You are relying on what Senator [James] Eastland might say?

A. In part.

Q. And what Representative Tuck might say?

A. In part.

Q. So all of your information—lock, stock and barrel—is hearsay. As a lawyer, you know this, do you not?

A. That's correct, sir....

Q. Did you furnish the reporters from your files information which in turn got into the newspaper and has furnished the background information for each of these stories?

A. Yes.

Q. Then I understand you correctly are the original source of information?

A. The original source of information was my files....

In arguing his change-of-venue motion, Kunstler told Judge Cundiff that the Lynchburg papers had attacked him in an attempt to "destroy" Wansley. "That is the only purpose of printing this material," he said. "It has no news value relevancy to the case other than the attempt to destroy this man's life. And that's why it's being used here. And Mr. Glass, as he says, uses his so-called subversive files in this as a racial case—a capital-crime case—in order to make every man who sits in the jury box suspect this man is being defended from Moscow.... I have never seen or read of articles so deliberately designed to prejudice a client of mine, and I have been with some very controversial clients."

Cundiff denied the motion for a change of venue and another motion that he disqualify himself, on grounds of prejudice, from presiding over the retrial. The *News* then published an editorial—headlined RED HERRINGS—that repeated the Communist-front allegations and accused Kunstler of trying "to use the Lynchburg newspapers as whipping boys to divert attention from the crimes of which his client is charged."

A second trial on the charges involving Miss Carter ended in a hung jury in October, 1966. A third trial was scheduled for March, 1967. By that time Wansley—who still stood convicted of nothing—had been behind bars more than four years. Cundiff again refused to move the trial to another city or disqualify himself. When the third trial got under way, Kunstler and Hirschkop questioned prospective jurors closely about their attitudes resulting from news coverage of the case. More than

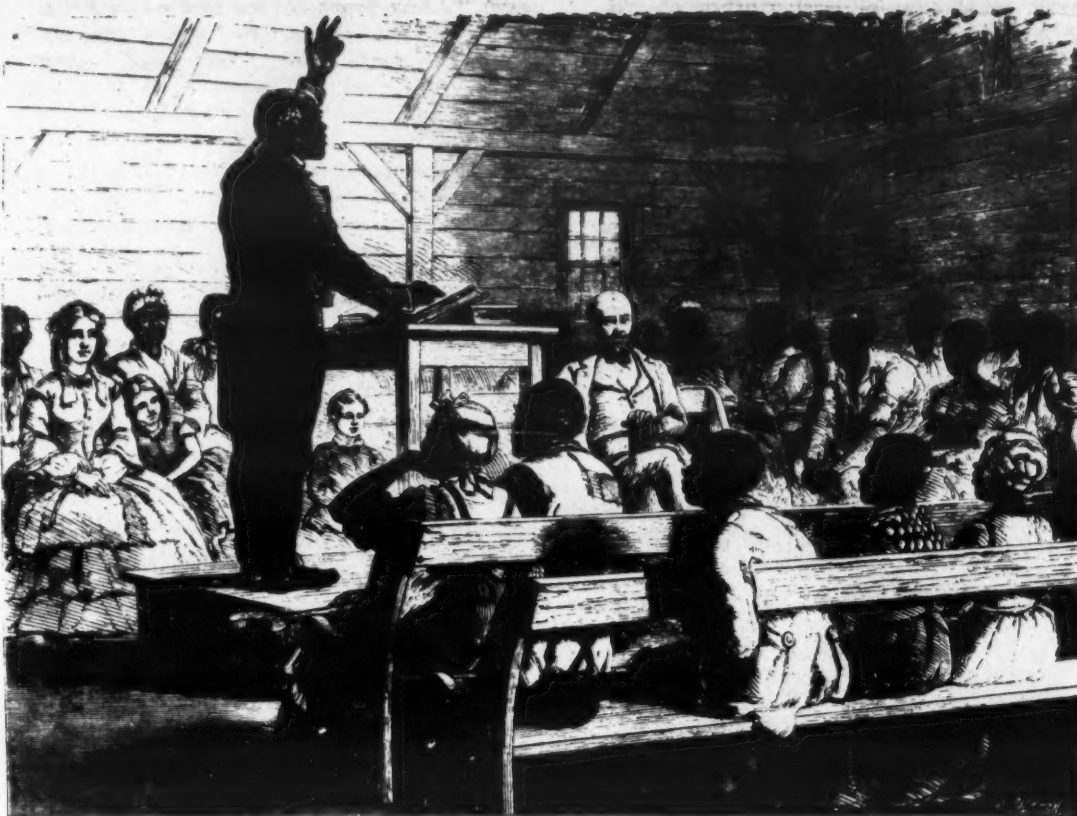
60 prospective jurors were questioned, virtually all of whom said they read one or both of the Lynchburg papers. Most of them, including several eventually seated as jurors, said they believed the allegations against Kunstler. Some said they would consider Wansley guilty until proved innocent. Once again, the jury was composed entirely of whites.

In this trial, Miss Carter—contradicting her previous testimony—said she was now able to identify Wansley as her assailant. Asked by Kunstler to explain her change of mind, she conceded her identification was based on the many times she had seen Wansley in court and viewed his picture in the newspapers. It was at this trial that Probation Officer Read testified for the first time about overhearing the conversation in which Wansley told his mother he did “it.” Kunstler demanded a mistrial, claiming such testimony was improper in view of Read’s supposedly semi-parental role toward Wansley. When the motion was denied, Kunstler contended—as Wansley has consistently done—that the statement to his mother referred only to his relations with Mrs. Fleshman. The jury deliberated five hours before finding Wansley guilty on both charges. This time he was sentenced to life imprisonment on the rape charge and twenty years on the robbery charge. The defense appealed, and Wansley remained in prison.

Following the third trial, the *News* and *Advance* were subjected to sharp criticism from both inside and outside Lynchburg. *Time*, *Newsweek*, *Life*, *The Washington Post*, among other publications, wrote scathing pieces about the papers’ coverage of the Wansley case and of racial issues in general. A *Washington Post* editorial said: “The atmosphere in Lynchburg is what lawyers mean when they talk of ‘trial by newspaper.’ When a city is inflamed, the fairness of the court proceeding is always in question.” In Lynchburg, the campus newspaper of Randolph-Macon Woman’s College also assailed the coverage of the case by the *News* and *Advance*. The local papers responded by calling the *Post* “an extreme socialist publication” and by accusing the campus newspaper of “parroting to perfection the Communist line.”

Perhaps the most serious blow to the prestige of the *News* and *Advance* came when 67 of Lynchburg’s most prominent citizens issued an open letter making clear that the newspapers’ racial policies had grown too extreme even for the city’s conservative white power structure. The open letter accused the papers of fomenting “frustration and bitterness” in the black community. “To persist in these policies can only be destructive of the general morale as well as the reputation of our community,” it said. The *News* characteristically answered the letter with an attack of its own, accusing the letter’s signers of a plot to take over the papers. In an editorial, the *News* described the open letter as an invitation to outside racial agitators.

Meanwhile, the papers continued their campaign against Kunstler and Wansley. On June 2, 1967—while Kunstler was seeking a new trial for Wansley—the *Advance* published its longest attack on Kunstler to date. The article, headlined KUNSTLER CONTINUES TO BE LINKED WITH COMMIE FRONT ORGANIZATIONS, filled almost four columns on one page and most of another column on a jump page. It began: “Attorney William M. Kunstler of New York has continued to be linked with Communist front organizations and efforts since he took over the legal defense of convicted Negro rapist Thomas Carlton Wansley and turned the case into a national racial cause celebre.” Then followed another listing of Kunstler’s supposed left-wing connections, many of which once again repeated previous allegations.



While Wansley remained in prison, Kunstler, Hirschkop and Mangum appealed the new convictions through the Virginia state courts. The main points in their appeals were that the trials had been “conducted in what was clearly a prejudiced atmosphere”; that the Lynchburg newspapers had deliberately tried to create such an atmosphere; that the grand jurors who indicted Wansley had been improperly chosen since the grand-jury list did not contain an adequate number of blacks; that the probation officer should not have been permitted to testify about the supposed “confession”; and that Judge Cundiff should have disqualified himself. The Virginia Supreme Court, which had reversed the previous convictions, upheld the new ones. The defense lawyers then asked a U.S. District Court in Richmond for a writ of *habeas corpus* overturning the convictions on the grounds appealed in the state courts—especially the charge of prejudicial publicity. On January 1, 1973, Federal Judge Robert Merhige Jr. reversed the convictions in a decision that excoriated the *News* and *Advance*. Merhige wrote:

The record before this court is shocking as to the nature and amount of prejudicial pretrial publicity given the matters by the Lynchburg press. The court finds that said publicity emanating from the Lynchburg newspapers was both inflammatory and highly prejudicial to the petitioner [Wansley] as well as to one of his counsel, William Kunstler. Reference to his counsel obviously contributed to the totality of circumstances making the trial one violative of the principles of a fair trial. . . . As to the petitioner himself, the newspapers consistently referred to him, prior to the third trial, as a “twice-convicted rapist,” even though Wansley’s two rape convictions had been overturned.

After reviewing the papers’ repeated allegations against Kunstler and the record of the questioning of prospective jurors, Merhige wrote: “In such an atmosphere, the court finds that as a matter of law it is well nigh impossible for prospective jurors to possess the ‘indifference’ required for an impartial hearing. . . . The trial court’s refusal to grant a change of venue was fatal to Wansley’s right to a fair and open trial.” Merhige also upheld defense contentions that racial discrimination had been used in selecting the grand jurors who indicted Wansley and that Probation Officer Read’s testimony was improper. The prosecution

appealed Merhige’s decision to the U.S. Fourth Circuit Court of Appeals, where the case is currently pending. If Merhige’s decision is upheld, the prosecution will still have the option of trying Wansley yet again.

When Lynchburg’s Judge Cundiff again refused to free Wansley on bail—saying such a release would “endanger the safety of every woman in Virginia”—he was overruled by Judge Merhige. The federal judge ordered Wansley released on \$10,000 bond. Thus, on January 17, 1973, Wansley became a free man for the first time in more than 10 years. He had entered prison as a boy of 17; he left it as a man of 28.

He had educated himself behind bars, earning both junior-high and high school equivalency diplomas. He had also become a leader of a group of Virginia convicts seeking to reform the state’s prisons. As a result of a lawsuit brought by the group, Virginia’s prison director had been ordered by a federal court to pay Wansley and several other convicts \$21,265 for subjecting them to “cruel and inhuman punishment.” The punishment described by the court included bread-and-water diets, arbitrary use of tear gas, extended periods of solitary confinement, “placing prisoners naked in a hot, roach-infested cell and taping, chaining or handcuffing inmates to cell bars.” When Wansley was released on bond, Merhige placed him under the supervision of J.J. Franklin, an ex-convict who runs a rehabilitation program in Richmond. Wansley works there in a community center on behalf of a prison-reform group, the Prisoners Solidarity Committee.

I interviewed Wansley at the community center in March. He is a slender man with an erect carriage who wears horn-rimmed glasses and keeps his hair in a semi-Afro cut. He looked stylish that day in a blue and white turtle-neck sweater, blue and white checked bell-bottom slacks and tan ankle-height boots. Hanging from his neck was a medallion depicting a tribal African’s head, which he explained was made “by a white guy in The Walls who wanted me to have it.”

For a man whose IQ had been described as in the “mentally defective” range, he spoke articulately about events of the past ten years. His conversation was sprinkled liberally with such terms as “restructuring society” and “reeducating the

public." Asked about his reaction to being released, he said: "I walked around in a daze for two days. Every time I walked up the street, I kept turning around and looking for a guard. I couldn't believe I was out."

He said he planned to devote his life to prison reform and to "restructuring society." As for Lynchburg, he said: "I think Lynchburg's a nice place. There's nothing wrong with Lynchburg. The power structure there just has to be restructured; it's got to get away from a lot of false beliefs—such as racism. People there don't know they have prejudices, but they do. Reeducation has to be done to give people true values—rather than fantasies. I couldn't really hate the Lynchburg power structure because that would be a complete waste of time. But I can't love it, either, because it perpetuates false ideas. It's almost like a monarchy. Those people sit in their towers and look down on everyone else." He said he was not worried about the prospect that he might have to stand trial still

again. "I'd have doubts if I was tried in Lynchburg, because of the newspapers there," he said. "But, if I was tried someplace else, I don't think a judge would even send the case to a jury."

The chances of another Lynchburg trial are miniscule. The prosecution's appeal of Merhige's ruling was argued before the Fourth Circuit Court on May 8, and the panel of judges reserved decision. No matter what their ruling, legal experts say Merhige's criticism of the Lynchburg newspapers and of Judge Cundiff was so severe that any potential future trial would almost certainly be moved to another city. As for the Lynchburg papers and their officials, they have consistently refused comment on Merhige's ruling. Carter Glass 3rd has bowed out as general manager and been replaced by his cousin, Powell Glass Jr., another grandson of the late Senator Glass. Powell Glass, staff members say, is "not quite so far out" as Carter. As one long-time

editorial employee put it: "The charges of racism made against us during the Wansley case—when Carter was in charge—were probably true. We're a little more moderate now."

Perhaps. But, if so, the news apparently has not seeped down to the papers' readers. A random sampling of Lynchburg opinion disclosed recently that few readers interviewed by this writer realized Carter Glass had stepped down and fewer still saw any discernible policy changes in the papers. "Looks like they're the same papers I've been readin' for 30 years," said one typical resident. Lynchburg itself is growing, with new industry and an impressive new bank and office building on Main Street. Some token homage has been paid by the city government to blacks' needs. But one typical Lynchburger whose ancestors helped settle Virginia summarized the situation this way: "It's the same ol' town, still run by the same ol' families, with the same ol' newspapers. Nothin' much changes around here over the years."

Extra...

continued from page 1

ship in a small town will gross a half-million dollars a year, and big agencies such as those in Chicago, Washington, Manhattan and Los Angeles, can take in \$20 million or more. Publishers come and go, but you seldom hear of wholesalers going bankrupt.

To a significant degree, these independent distributors (IDs as they're known) decide what people in their area get to read—and what's kept from them. They distribute about 80 per cent of all national publications that seek retail display, including all the best-selling magazines, and about 50 per cent of the paperbacks (the remainder are put out by special book jobbers or shipped directly to volume retailers). The arithmetic here is important: There are 3,000 different periodicals and 110,000 paperback titles in print, with another 400 to 600 new books pumping from the presses each month. But the average retail outlet can display only 50 to 150 magazines and maybe 150 paperbacks. More than anyone, it is the local wholesaler who selects the books and magazines that go on the racks.

The demise of the American News Co. agencies left such decisions in the hands of men who for the most part had come up through the newspaper distribution wars, knew the trucking business and the ways of the streets, and were accustomed to doing business on a basis of friendship and mutual favors. As often as not, they ruled their monopolies like little kings, and occasionally would allow—and still do—their personal prejudices to influence their business decisions.

Since *Ramparts*' inception, local wholesalers periodically have withheld it from retailers in one place or another. The most glaring incident involved a 1970 issue with a cover story offering \$10,000 for information that would lead to the arrest and conviction of a cop who had killed a black youth. Wholesalers in several cities decided the issue was offensive and refused to deliver it. For a long time, the wholesaler in Madison, Wisc., a man named Harry Tobias, used a tactic with *Ramparts* favored by many distributors when dealing with disliked publications. Tobias would deliver only a handful of copies, just enough to avoid an outcry but far fewer than could have been sold in that university town.

Other distributors have other targets. A few years ago, for example, a *Life* magazine article uncovering official corruption in St. Louis was held



off the stands in that city for 24 hours, finally appearing only after publicity forced its release. The local wholesaler, Alan Molasky, it turned out, was trying to protect some buddies cited in the *Life* article.

In recent years, computer-wise sons out of Harvard Business School have been gradually taking over the distributorships from their fathers, and such excesses are on the wane. When outright censorship does occur now, it is often as much the product of community pressure on the wholesalers as of their own prejudices, but even so, the monopolies are no less intrusive than ever, though in more subtle ways.

In the old days, when the balance of power still lay with them, national distributors would send out new magazines confident local IDs would somehow find space to test-market them. Now, confronted with a crush of competing titles and not eager to try any new ones, more than 100 wholesalers demand to review a new publication before it is shipped, including agencies in such major cities as

Philadelphia, Dallas, San Juan, St. Louis and Pittsburgh. The Charles Levy Co. in Chicago goes further, asking for advance sheets explaining the new magazine even before it sees a copy. With new paperbacks, most local wholesalers get advance looks at covers and blurbs. The big wholesalers have paperback specialist who then help the boss choose; at the smaller agencies, the man-at-the top does it all.

With paperbacks as with magazines, the system works well for the few best sellers and the few best-selling lines, and only haphazardly for all the rest. As one circulation manager complained: "Unless it starts selling immediately, the average book has a shelf life of only 10 days. Now let's say you have a book that's selling well without being a best seller. Your job as a salesman is to get the wholesaler to reorder that book. But most of them won't. They'll just take the new books and the best sellers and to hell with your solid little gem." Given their monopolies, once IDs take a title off their racks, there's no way for it to get back.

The same monopoly system that gives wholesalers so much say in choosing what publications get on the stands, doesn't encourage them to do a good job with those titles they do distribute. Ideally, the wholesaler should check the racks in each retail outlet at least a couple of times a week, refill the empty spaces and, perhaps most important, move titles from one location to another so that each has a maximum opportunity to reach potential customers. Unfortunately, however, few wholesalers either "dress the stands" or keep tabs on sales as well as they did when they had competition. Only a handful follow the practice of Hudson County News of New Jersey, one of the largest IDs, of sending special field men into retail outlets to do that kind of work. Instead, most wholesalers simply have their routemen—their truck drivers—drop off tied-up bundles of magazines and paperbacks, and then they trust the retailers to display them intelligently.

To try and compensate for all the inefficiency, publishers must put out thousands of extra copies, hoping bulk will cover for the lack of accurate sales information. This helps, but the cost

(continued on page 16)

Special Counsel

On April 27, *The New York Times* reported that Presidential counsel John Dean had given L. Patrick Gray, acting FBI director, two file folders that "should never see the light of day." Dean said the folders Gray destroyed contained documents fabricated by convicted Watergate conspirator E. Howard Hunt. The forged cables were designed to implicate President Kennedy in the assassination of South Vietnamese President Ngo Dinh Diem.

A handwritten copy of one such cable was in the possession of William Lambert, a former *Life* investigative reporter who had been trying to establish whether the document was genuine since the fall of 1971. To no one's surprise, it later became known that Lambert had been tipped to the existence of the cable by his "good friend" and long-time source, Charles Colson, the former special counsel to the President regarded as the mastermind of many of the "dirty tricks" of the 1972 elections. Colson is widely believed to have been the source of Lambert's 1970 expose of Maryland Sen. Joseph Tydings—a story that probably cost the Senator his re-election. Lambert denies that the Tydings story came from the White House; he does admit that Colson gave him considerable assistance. In 1971, Colson introduced Lambert to Howard Hunt.

Following Dean's disclosures about the documents, Lambert, who was no longer working for Time-Life, was put on retainer by the *Times* to continue digging out the cable story. This "special consulting assignment," as Lambert calls it, has been mentioned in *The Washington Post* and elsewhere, but never in the *Times* itself. As events unfolded, however, Lambert became more a principal in the drama than an investigator.

Lambert was cited as the *Times*' source for the text of the Diem cable (April 28) but he was said to have refused to name his source, while not denying that it was Hunt. (Although a *Washington Post* story that day said that Lambert had made just such a denial, he insists that the *Post* reporter misunderstood him.) On May 2, the *Times* ran an unbylined interview by Christopher Lydon with Lambert, based on Lambert's visit to Colson's home in Virginia and a subsequent phone call.

For the first time, Colson (still not identified as Lambert's link to Hunt) told his friend that he had known since early 1972 that the Diem cable was a fake. He managed to convince Lambert, though, that he had subtly tried to steer him off the story at the time. In the *Times* interview, Lambert offered an explanation of Colson's failure to tell him directly: "I suspect," Mr. Lambert speculated, "that he didn't want to tell anybody

that a guy that he had recommended for a sensitive job was fabricating documents." Lambert also reported to Lydon that Colson had "emphatically denied" supervising Hunt in the forgery. Nor had he seen the fake document.

However, in grand jury testimony released at the Ellsberg trial May 7, Hunt charged that it was Colson who had ordered the forgery. In his statement, he also said that the former special counsel had planted the document with Lambert. Finally, and only after this testimony was released, Lydon was able to get Colson to stop denying that he had seen the bogus cable or that he had been Hunt's supervisor in a project designed to establish official American complicity in the Diem assassination.



Charles Colson

"I don't know what to believe at this time," says Lambert, who still refuses to concede firmly that he was had by a man who had "always dealt squarely with me." Commenting off-the-record on Lambert's defense of Colson in the May 2 piece, one *Times* man said, "We tried to make it clear in the story that Lambert was being duped." An ironic remark, in view of the fact that Lambert was on assignment for the paper. "We thought he could help deliver a story . . .," says *Times* national editor David Jones. "As the information began to become unraveled, he became involved as a figure in the story. That of course was not our intention."

—T.P.

Reviewer Kennedy

In April, 1972, Sen. Edward Kennedy introduced a measure designed to prevent developers from further encroaching on the beauty of the historic Massachusetts resort islands, Nantucket and Martha's Vineyard. The Nantucket Sound Islands Trust bill has provoked considerable controversy among the islanders,

many of whom are concerned about its economic consequences. Some are also outraged over a provision that would require residents of certain areas to relinquish their property after 25 years to a trust to be jointly administered by federal, state and local commissions. Not a little of the opposition was sparked by anti-Kennedy sentiments and by resentment of a plan drawn up and promoted by outsiders.

Kennedy, who has promised not to push the bill in Congress until a majority of the islanders support it, recently found a forum for his position in the pages of *The New York Times Book Review*. At the request of his office, he was given an opportunity to review (May 20) Anne Simon's *No Island Is an Island: The Ordeal of Martha's Vineyard*. Simon, a New Yorker and summer resident of the island, has long been active in the local conservation movement. Her book, which originated with a *Times* op-ed piece, examines the recent land-uses clashes and strongly advocates passage of the Kennedy bill. While researching the book, she naturally interviewed the Senator. Not surprisingly, Kennedy praised the book for its "trenchant and cogent" arguments.

John Leonard, editor of *TBR*, conceded that Kennedy piece was not an "ideal" book review as such, but he approved it because "it was saying what I thought we should say about the subject." In addition, he was glad to have a "show biz byline" even though he assumed correctly that this review, like other articles by politicians, was ghosted by an aide.

—T.P.

Smeared?

A New York police officer, Thomas Shea, was recently charged with the murder of Clifford Glover, a ten-year-old black from Queens he says he mistook for a hold-up suspect. On April 30, two days after the boy was shot, *Daily News* reporter Ellen Fleysher learned that Shea had been involved in a previous, though non-fatal shooting. In April, 1972, he had pursued and shot in the neck a Puerto Rican man fleeing the scene of a West Side robbery.

The *News* refused to run the story because it would have "smeared" Shea, as city editor Mike Clendenin explained to Fleysher. At a press conference May 4, two days after the *News* could have made Shea's record public, Police Commissioner Donald Cawley disclosed the earlier shooting. Both the *Times* and the *Post* had carried the story prior to Cawley's press conference.

—T.P.

Bookworkers

Bookworkers, the small group that organized a well-attended grievance-venting session at the New York Public Library April 9, is continuing its "consciousness-raising" for those involved in the making and selling of books. Stressing the desirability of frank discussion, the group intends, for the time being at least, to keep its size down to about a dozen members. Instead of expanding, it has formed (by "binary fission," according to Jeff Weiss of the New American Library) a second Bookworkers unit.

Currently, Bookworkers projects include a newsletter, to be financed by small donations, and a "lost books fair" to be held in September for the purpose of calling attention to worthwhile efforts that have escaped notice. The group may also decide to sponsor forums keyed to the topics aired at the Public Library meeting: writers' rights, promotion and distribution, employment practices and the economics of the industry.

-T.P.

Truth to Tell

William Safire, the ex-Nixon ghost, made his debut as a *New York Times* columnist April 16 under a double handicap. He not only had to woo the politically-minded readers of a liberal newspaper at a time when the only political issue was Watergate; he also had to demonstrate the wit and style those readers had been led to expect. Arthur Ochs Sulzberger, the paper's publisher, promised that Safire would be a "fresh new voice." James Brady, in his *New York* magazine column, reported that Safire had "a thoroughly professional flair for the eye-catching phrase." *Newsweek* quoted Frank Mankiewicz, who described the new columnist as "a man of parts" and "a lively writer." *Time* observed that in "a relatively humorless administration, Safire stands out as a wit and phrasemaker."

On the evidence to date, however, he also stands out as a master of the cliché. He generously saluted Jack Anderson and *The Washington Post* Watergate team, Carl Bernstein and Bob Woodward, with a "hats off." And he has also given us:

"*Truth to tell*, the only way the reader or the writer of this column will find the answer is to watch this space for further developments."

"Watergate is not a significant defeat, but it was developing into one and the President moved in the nick of time."

"...as we make dirty politics too

costly a game to play, cleaning the Augean stables becomes a snap."

"What's to keep us from following the primrose path to a permanent incomes policy?"

"Nobody is ever going to repeal the law of supply and demand."

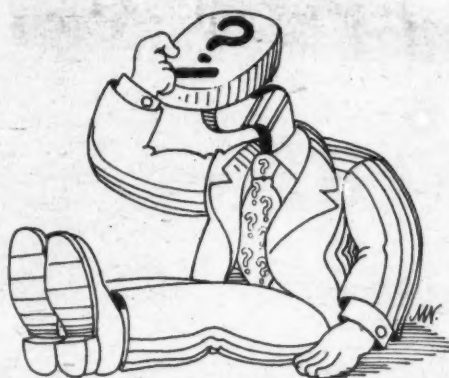
"Labor leaders, who give Nixon men the back of their hands..."

"Nobody's wrist was even slapped, and since that time grand jury secrecy has been a joke."

"Andrei Gromyko, who bids fair to become the durable Mikoyan of his time."

"The situation will get worse before it gets better."

So far, Safire's most eye-catching phrases have been borrowed ones that have led him into syntactical bogs as he tried to work them into his prose: "Like the oboe, 'an ill wind which nobody blows good,' Watergate makes the case for urgency of administrative decentralization." "Contrary to Churchill's admonition, he is neither magnanimous in victory nor defiant in defeat..." "After four years of listening to the metaphor of the computer favored by Press Secretary Ron Ziegler... his use of 'inoperative' in withdrawing past statements set a great many teeth on edge."



Freshman-comp teachers could also find examples of various other syntactical faults. For wrong sequence of tenses: "I suppose you have to have been there yourself, and not have known, to really believe the President didn't know." (Forget the split infinitive.) "A decade ago, Richard Nixon was groping around the floor for the pieces of his career like a man who lost both contact lenses." Use in the same sentence of related words with different meanings: "Anybody who wants the President to prejudice the case with prejudgments is asking, in effect, for him to obstruct justice." Dangling modifier: "Mr. Nixon has credentials as an investigator, long

unused but still valid [sic]: like Thomas E. Dewey, that is how he first came on the scene." Wrong use of infinitive: "Five years ago, Senator Edward Kennedy was widely regarded to be the Democrat most likely to be President."

The lack of a political subject that could be treated with truly disarming candor led Mr. Safire into another trap. The handful of conservative writers previously known as phrasemaking wits discovered in the early 'sixties that they could strike up a common bond with the Eastern intellectual elitists by coming out firmly against linguistic "permissiveness." (The American literary left takes as firm a stand for grammatical law and order as the most fervent rightist, probably because they have misread the works of the Georges—Orwell, Steiner and Lichtheim. When the Georges talked about the "debasement" of language they were not referring to hoary grammatical disputes but to semantic distortions.)

Safire invited the attention of the grammatical purists by devoting his maiden column to the subject of correct usage. (He was for it.) But to maintain your standing with those types, you have to be acquainted with the rules and follow them in practice, and Safire fell short. By his third week he had gotten enough mail pointing out his own lapses to devote a column to that. The topic of the column was "The Politics of Language," which gave him an opportunity to plug his book, *The Language of Politics*, but was otherwise pretty much of a loss. He defended his use of "proven" on the grounds that Fowler was out of date on that point, but his proper defense was that Fowler never was in date on it, as he could have found out by consulting the *Oxford English Dictionary*. He should also have thrown into the burn bag the letter chiding him and his confreres on the Nixon staff for saying "precipitous" instead of "precipitate" withdrawal. The two words have been used synonymously since the 17th century, and the time spent on sending around memos about them could have been better spent in determining the true likelihood of a "bloodbath" in the event of a precipitous withdrawal.

Safire also has identified *Moby Dick* for us as "Herman Melville's work of fiction" and re-introduced the addle-brained wife and the Jewish mother, the latter complete with chicken soup. Then, there are his puns: "Nobody votes for Mayor Culpa," "source for the goose," "It's always darkest before the yawn" and "Why carry on the charade of phase the nation."

Safire, so bad.

-ETHEL STRAINCHAMPS

New York Post

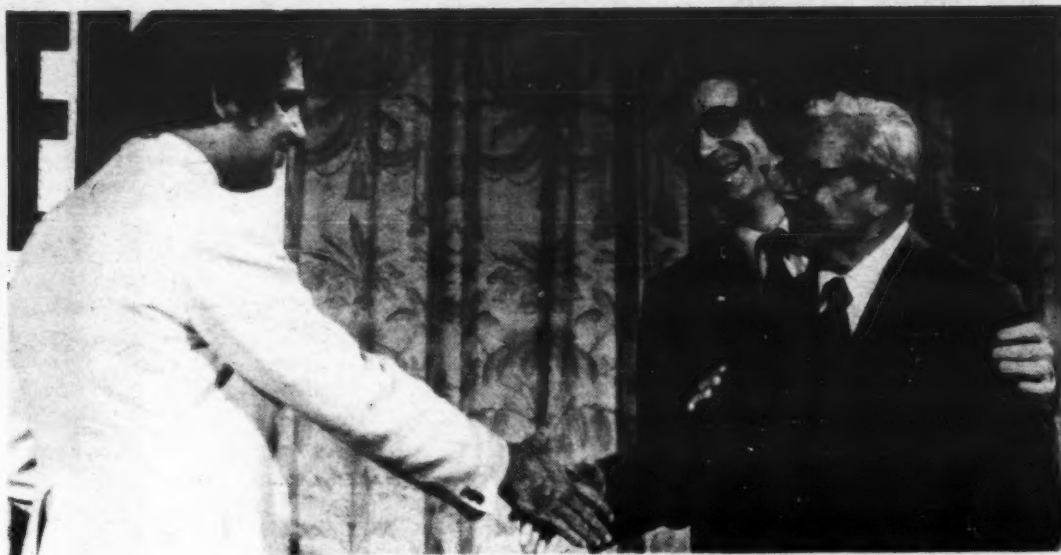
New York News

VARIETY

VOICE

THE NEW YORKER

1010 WINS



Diana Mara Henry



Nancy Moran

Liebling II ...

continued from page 2

and people got several hundred dollars or more than that. Do you understand how amazing that is? Unless you own, you are owned. And we own. I mean, it's ours. We did it!"

Three years ago, the notion that power could even be tinkered with was hardly thought about, much less discussed, in the newsroom. Now, here are three totally disparate publications—a small midwestern daily, a national women's magazine and a big-city weekly newspaper—that have abandoned, in varying degrees, the traditional hierarchical way of doing things. More important, despite the frustrations and occasional chaos of operating so openly, each is editorially superior to most other publications of its type.

Three examples, of course, do not a movement make. And evidence abounds demonstrating that any push for power at the large newsgathering organizations is a much harder and more hazardous undertaking. "The man who owns the papers and pays my salary doesn't want this," Marshall Field's chief negotiator told Larry Finley and other reporters at the *Chicago Sun-Times* and *Chicago Daily News* when they tried to gain some "voice in the product" last year. Predictably, they didn't get any. But they failed less because of Field's opposition, however determined, than because they didn't have the numbers. For whatever reasons—careerism, fear, sloth or a genuine belief that money should decide—the majority of journalists remain reluctant to get into the power game. McCormally put it rather succinctly when he suggested (correctly, I think) that "more publishers put it on the line with advertisers than journalists do with publishers."

Both Sanford Wolff, national executive secretary of the American Federation of Television & Radio Artists (AFTRA), and Charles A. Perlik, Jr., president of The Newspaper Guild, endorsed the idea of reporter power and said they would put their unions behind any shop that showed real strength in supporting the goal. Perlik also agreed to provide Guild facilities in Washington for publication and distribution of a newsletter to be sent out periodically by "The Liebling Group," an organization formed on the last day of the counter-convention to promulgate journalistic reform. The group's chairman is Michael L. Dorman, a Long Island freelance writer and author, and the acting editor of the newsletter is Joan Doviak, a Washington free-lance writer. All queries should be addressed to her at 4338 Reno Road N.W.—Washington, D.C. 20008.

For all the obstacles, the future of reform in American journalism does not really seem so bleak. And given some of the developments between Liebling I and II, I suspect the prospects may appear even brighter when we convene Liebling III next year.

Last month in this space I reported that Wes Gallagher, general manager of The Associated Press, had ruled that no one from the AP could participate in the panel on wire service reporting at Liebling II. For the record, at the very last minute Gallagher decided there had been a "misunderstanding." As a result, Carl Leubsdorf and Barry Schweid, reporters from the Washington bureau who had been asked by [MORE] to represent the AP, were told they now had permission to appear. But only as individuals, not as representatives of the news service—a distinction they were ordered to make clear at the panel and which they did.

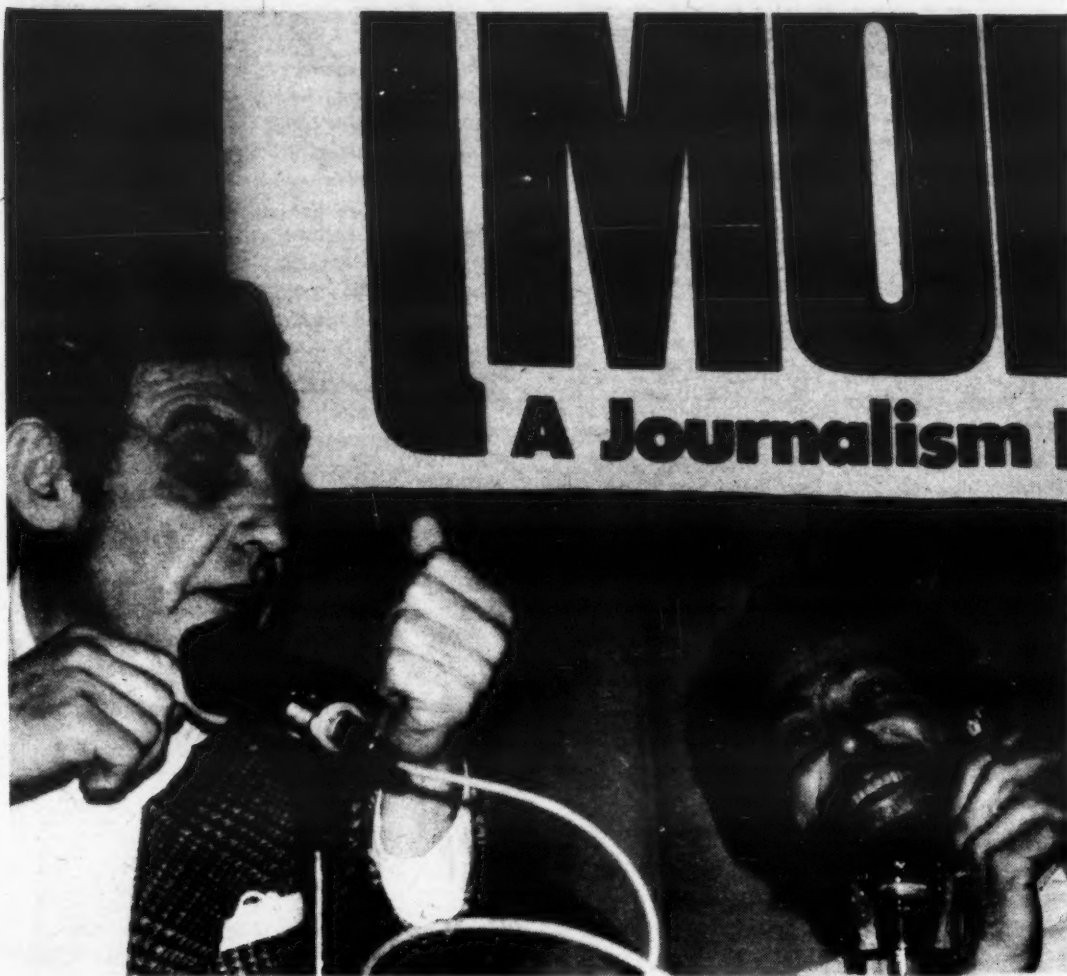
Not everyone at the AP got the message, however. A reporter charged with putting together a story on the discussion for the news service, wrote that Leubsdorf and Schweid were "representatives of The Associated Press." No sooner did this transgression move on the wire than it caught the eye of Lou Boccardi, the AP's executive editor in New York. And minutes after that, out over the "A" wire went a correction "clarifying that participants were not spokesmen for the news agencies. . . ." (In its rush to set the record straight, the AP now implied that United Press International shared its nervousness over the Big Distinction; quite the contrary was true, since UPI Washington bureau chief Grant Dillman took part in the panel willingly and at no time suggested that management had disowned his remarks *a priori*.)

All this would be nit-picking, of course, did it not turn directly on the subject explored above: power. Carl Leubsdorf and Barry Schweid contributed significantly to Liebling II's examination of wire service journalism, both defending and criticizing the AP. Their ideas and the ideas of dozens of their colleagues are fundamental to any effort to seriously upgrade the quality of the world's largest and most influential newsgathering organization. Yet, clearly, Wes Gallagher seems much less interested in this sort of crucial input than he does in making sure that any AP employee who might speak his or her mind is speedily relegated to the Disassociated Press.



Nancy Moran

David Halberstam embraces Homer Bigart as [MORE] contributing editor J. Anthony Lukas congratulates the former Times and Herald Tribune reporter after presenting him with the 1973 A.J. Liebling Award for journalistic distinction; columnist Tom Wicker chats with an admirer before tangling with fellow panelists on whether it's possible to be cosmic three days a week; former Times Vietnam correspondent Gloria Emerson and Pacifica Radio Broadcaster Paul Fisher listen to a question dealing with the journalistic lessons of the war.



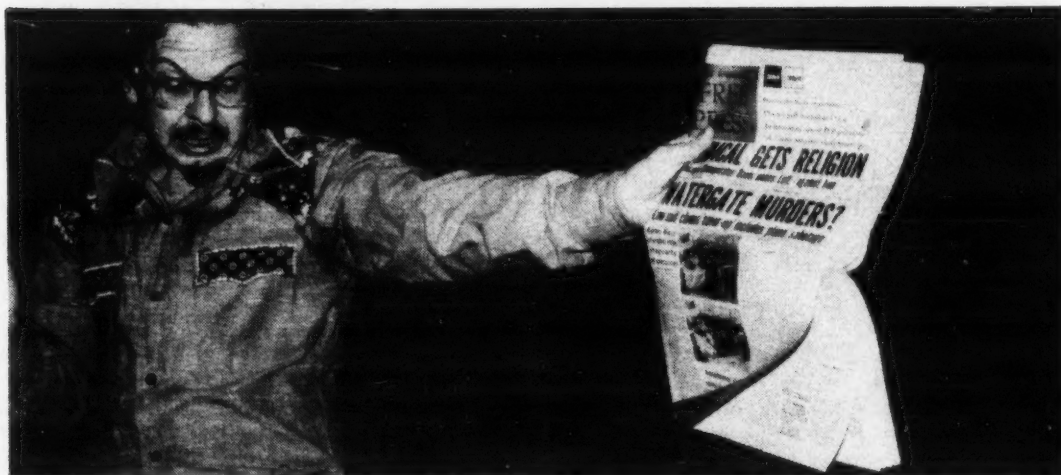
Diana Mara Henry



Diana Mara Henry



Nancy Moran



Diana Mara Henry

Clockwise from top left: AFTRA national executive secretary Sanford Wolff debates a union issue with member Nat Hentoff; Laura Shapiro describes reporter control at The Real Paper in Boston; veteran White House correspondent Sarah McClendon talks about dealing with Ron Ziegler and his predecessors; members of the alternative media make their point from the balcony of the Mayflower Hotel's ballroom during the panel on Watergate; Bob Woodward (left) and Carl Bernstein, The Washington Post reporters who broke the Watergate story, discuss the hazards of investigative reporting; Art Kunkin waves his Los Angeles Free Press, while criticizing the shortcomings of the establishment media.



Elise Vider



Betsy K. Frampton

is high. More than half the magazines and nearly half the paperbacks come back unsold—an especially heavy burden for magazine publishers, who pay a fee on each unsold copy of from one-half cent to two cents, depending on the ID. What's more, the extra copies antagonize the retailers, making extra work for them and tying up their money in unneeded goods. As one result, a dwindling number of retailers now handle magazines. And many others balk at trying out new titles, as Time Inc. has discovered with its new venture, *Money*. As one company executive admitted: "Our wholesaler's got to take it to the retailers and in effect jam it down their throats."

The wholesaler monopolies also create extreme pressure on prices. Magazines pay anywhere from 12 to 20 per cent of their cover prices to IDs (retailers get 20 per cent), the rate varying both with the magazine and the wholesaler. *Time*, for instance, allows wholesalers a basic price of 16 per cent, which works out to eight cent per copy out of the magazine's 50-cent cover price. But like all other magazines, *Time* pays an extra penny or two to the

big wholesalers whose monopoly positions in major population centers gives them enormous power.

Paperback publishers are under the same gun. They pay anywhere from two to 10 per cent of the cover price (the retailer gets 40 per cent), and again the rate varies with the muscle of the local wholesalers. Bantam, the industry giant, gives a basic allowance of two to six per cent, which on a 95 cent book works out to a range of less than two cents a copy to about five-and-a-half cents. In addition, Bantam has incentive formulas that enable wholesalers to earn as much as 10 per cent—or 9½ cents a copy—if they can either increase sales or reduce the number of returns. Small paperback lines, however, sometimes offer a direct payment of 10 per cent just to get service from a local wholesaler that is giving most of its rack space to the big companies.

In the old, rough-and-tumble days, a lot of wholesalers who understood the value of an under-the-table, untaxed buck knew how to take advantage of such competition. But by all evidence, the industry now is as clean as any in Nixon's America,

if not cleaner. Those "payoffs" that do exist—if they can be called that—usually come in the form of free books from salesman of the small lines—Lancer, Midwood, Grove, Award—desperate to get rack space any way they can. "It's not put forward [by ID's] as a demand; it's the publishers who make the offers," explains a sales manager for a small book line. "It's just that they [wholesalers] do such a lousy job, it's become accepted that if you want them to do anything for you, you pay. You have to. There's so little room on the stands. The big publishers command 85 per cent of the rack."

As much as publishers complain about the performance of wholesalers, not many want to see them broken up. The consensus is that only chaos would result from an effort to restore the old competitive system. The Federal government doesn't seem troubled about the monopolies either, at least so long as no single company acquires too many local franchises. Yet, right now, this is one of the two industry trends that could pose a real threat to the publishing industry. And the Molaskys—father Alan and son Mark—may be the supreme

'Already I'm a Monument on Broadway'

Morris Kavesh has owned the same small newsstand near Sloan's Supermarket on Broadway and 97th Street for more than 40 years now. He is a Russian immigrant, a Jew who fled after the Revolution when his father's lucrative business was expropriated by Lenin's regime. After knocking around Mexico for seven years, hawking hardware with a sing-song Spanish sales pitch he still can recite, he arrived in New York and set up the newsstand with his mother as a partner.

He's never exhibited his wares in a sheltered kiosk, as so many news dealers do. His newspapers sprawl out towards the street, propped up on crates, old tables, and a rack where he sells foreign language journals. He stores his papers in the vestibule and basement of the building next to Sloan's, which also houses one of the few Orthodox *shuls* in the neighborhood. In the past decade, since his mother and wife died and his sons moved away, he's given up selling magazines—the chief sources of profit for most newsstand dealers—since he lacks the energy to carry the publications to the basement, and doesn't earn enough to pay for a structure that can be locked at night or keep them dry when it rains.

He works from about 6 a.m. to 4 p.m., seven days a week, 50 weeks a year. (He used to stay open till midnight, but now he closes early for fear of crime.) Each day he sells approximately 350 *New York Times* about 270 *Daily News* and more than 200 *New York Posts*; about 70 *El Diarios*, 20 *Daily Forwards*, 20 *Village Voices*. He makes approximately three cents on every *Times* he sells, two cents on every *News*, three cents on *Diario* and the *Forward*. His annual income, he estimates, is between \$6,000 and \$8,000. Yet, at a time when newsstands are closing at a rapid rate (there were 634 in 1970, 552 in 1972), when the *Times* and *Daily News* think about abandoning their bulldog editions because so few of the remaining stands stay open late enough to sell them, he is one of the few cheerful people in the business. "Already I'm a monument on Broadway," he says.

Walk by his stand any morning between seven and ten and you'll see him scanning every paper he receives, looking for articles to send his

beloved sons. "I mail them all the news under the same roof," he says, exhibiting the long, brown envelopes into which he stuffs articles from publications as diverse as the *Voice* and the *Journal of Commerce*. He sends both boys every item he can find about American Jews, about Israel, about the stock market. He sends Elliot, an engineer for Boeing in the state of Washington, everything he digs up about airplanes and space technology. Sheldon works for Allied Chemical in New Jersey, specializing in research into plastics: when his dad found out the *Journal of Commerce* carried a daily column about that industry, he ordered one copy from the Metropolitan News Co., and made a point of clipping the page daily.

At 70, Kavesh is at the center of a web of relationships that span over four decades, to the time the Upper West Side was a sedate Jewish neighborhood. An old man who lives nearby brings him a jar of light coffee in exchange for a week's supply of *Daily Forwards*, which he returns each Friday in a tattered brown bag. A woman, coming out of Sloan's, asks him to set aside a *Daily News* and a *Jewish Press*, which she'll buy later. Then, she recalls (in a voice that's both teasing and nostalgic) how lovely his wife was, how much lost local lore both of them had absorbed. When she leaves, a memory of the old days flashes through his mind and he says, with just a trace of bitterness, that 20 years ago he sold 20 copies of *El Diario*, 70 copies of the *Forward*, and now it's the reverse. That seems to bother him more than the demise of the old daily papers—the *Mirror*, the *Sun*, the *Journal American*, the *Trib*, the *World-Telegram*—which cut deeply into his business. But then, a Puerto Rican woman, hurrying by, tells him she wants this week's Spanish language *ABC* magazine on credit and he complies, as he has for years. "She's an old friend of mine. I know she'll pay as soon as she can."

He spends hours each day chatting with old acquaintances in the entryway of the littered vestibule where he keeps his spare piles of newspapers. The talk often focuses on Sheldon and Elliot. Show a glimmer of interest in the boys, and he will leave his stand, hurry over to his apartment on 97th Street, and return with an old shopping bag filled

with worn clippings from their high school newspapers, the *West Side News*, the Boeing and Allied Chemical house organs. Kavesh says that his sons, between them, earn more than \$100,000 a year. Though he doesn't take any of it, their incomes give him a sense of security. So the grueling, dangerous business of running a newsstand is as much an avocation, as a necessity. "I'd rather be here than over there," he says, pointing a gnarled finger towards the benches on Broadway's islands, where hundreds of the Upper West Side's old people huddle together for comfort during their last, lonely years. "I'd rather be earning a live dollar than getting a dead one with a Social Security check."

Perhaps because he is so well known on the block, Kavesh is an unusually trusting man. When he goes down to his cellar storeroom he often asks friends, or even casual acquaintances, to watch out for the business. Unlike the fiercely competitive men who own the huge, successful kiosk on Broadway and 96th Street, he lets potential customers leaf through the *Voice* or the *Jewish Press* long enough, at least, to decide if they want to buy.

Yet he is also extremely watchful. He has been held up twice during the past year in broad daylight in the vestibule—both times at knife-point. Newspapers are stolen from him every day. Distributors cheat him.

As you learn about the physical dangers and economic difficulties of his work you realize that, despite his cheerful manner, he—like all of the city's 552 newsstand owners—lives closer to the edge of street crime and white collar crime than almost any other group of businessmen in town.

If you want to open a newsstand now, an attractive kiosk with a full array of magazines, you need between \$3,000 and \$6,000 initial capital, and a great deal of patience and courage. Simply to sell the *Times*, for example, you have to deposit between \$600 and \$1,000 with the paper's delivery department (depending on the size of your order) before you receive a single consignment. The *Post* and the *News* charge about the same rate. Most "foreign papers"—a term which covers everything from *The Wall Street Journal* to the *Irish Echo*—are delivered by Metropolitan News, which requires

example of what wholesale monopoly power run amok could mean.

Alan Molasky is one of the old-line, get-it-while-you-can tough boys who for years controlled the Pierce News Co. in St. Louis. With that as his base, he and his son began buying up IDs in other areas. In Canada, they acquired a half-interest in the Toronto agency, then took over the distributorships in Hamilton, Ottawa, Cornwall, Brantford, Kingston, Chatham and Windsor. Then, in 1971, when another company bought an agency in Kitchener that the Molaskys had been eyeing, they allegedly put on the kind of squeeze that long had made them one of the high-priced and more difficult wholesalers to deal with. According to a special Canadian commission, the Molaskys used the weight of all their franchises to try to force two major national distributors—Triangle Circulation (*TV Guide*, *Seventeen*) and McFadden-Bartell (romance magazines, mostly)—to switch their business from the Kitchener group to a company the Molaskys were setting up to compete with it. The Ontario legislature, already outraged that American-owned whole-

salers, the Molasky's in particular, weren't putting books from Canadian publishers on their racks, intervened with a law that blocked the Molaskys from acquiring any more Ontario outlets.

Meanwhile, a grand jury in New Orleans last year opened an investigation into a similar attempt by the Molaskys to force that city's wholesaler to sell out to them. According to both industry and government sources, the Molaskys warned the wholesaler, Maurice Rufa, that if he didn't sell they'd open a competing agency. When Rufa refused, the Molaskys allegedly again went to the national distributing companies and demanded that they switch their magazines and paperbacks to a company they would run in New Orleans.

Mark Molasky, the 24-year-old president of the St. Louis company, also allegedly counterfeited book covers in Buffalo last year—returning them to publishers for credit as if they had come off unsold copies. The Molaskys' behavior in general, and the counterfeiting in particular, persuaded both national distributors and publishers—with the acquiescence of the U.S. government—to gang up on the family

and force it to sell all its franchises, which the Molaskys supposedly have now done.

The government has also moved against another industry giant, ARA Services, Inc., the biggest vending machine company in the country. ARA owns about 20 per cent of all local wholesalers, including behemoths in L.A., Washington, the Bay Area and Hawaii. Although the company has been on scrupulously good behavior—being more efficient than most and slightly more reasonable about its fees—it has more power than even God should have over publishers. Aware of this, the Federal Trade Commission filed an anti-trust action against ARA and in March announced a consent decree under which the company agreed to divest itself of several agencies and to accept a 10-year moratorium on acquiring new ones. Despite the decree, the consolidation of wholesalers by companies other than ARA goes on apace, and in the last decade alone the number of independent agencies has dwindled by 300.

The second trend that could bring trouble to the publishing industry is the acquisition of retail

a deposit of \$600 before delivery can begin. So does the Manhattan News Co., which delivers most magazines.

It only costs \$10 to get a kiosk license from the city's Department of Consumer Affairs. But if you want to start your business in an abandoned stand, rather than building one yourself, you are very much at the mercy of the city's bureaucracy. Blind people and veterans have the first choice of available kiosks, which means that others who want to take over a shelter are rarely able to choose the neighborhood where they work. The alternative is to build your own structure, and people who have done that recently say that the costs add up to about \$2,000.

Increasingly, security is another major expense. In order to receive and display a day's delivery of newspapers and magazines, most news dealers get to work between 4:30 a.m. and 6 a.m. Those are still muggers' hours. So they hire enough assistants to provide what a dealer at Broadway and 86th calls his "security force." "My payroll is about \$500 a week," he estimates, "and even that figure is probably low. This," he said, pointing to his cash box, "is a magnet. I must have fired at least 10 assistants I caught stealing from me during the past two or three years." Moreover, he complains, "it's a business full of *gonifs*." The distributors are as bad as the street criminals and the crooked assistants. Not the executives of the major companies, who rarely give individual dealers much trouble, but the men who actually work on the delivery trucks, and constantly try to cheat those who sell the papers on the streets.

If a dealer orders, say, 75 *New York Posts*, the deliverers might give him 70; they might withhold 10 or 15 *Sports Illustrateds* out of a consignment of 100. A newsstand operator has to have a sharp, practiced eye to spot that kind of short-changing, since the delivery men pause at each stand for just a few minutes, and any complaint that's filed with the company afterwards takes considerable time and paperwork to process. The hustle allows the delivery men to go on the take, since there are plenty of dealers in town who will pay bribes to receive a batch of newspapers or magazines they haven't



Newsdealer Morris Kavesh

officially ordered. Each sale of a smuggled paper—a *New York Times*, say—means a clear profit of 15 cents (minus the bribe) instead of the three cents Morris Kavesh earns from his *Times*.

The business also demands dozens of difficult hidden decisions. For example, few kiosk owners follow Kavesh's practice of bypassing magazines. They earn about 20 per cent from each periodical, which can provide a crucial profit margin with an expensive "hot book" like *Playboy*. But it takes considerable knowledge of the magazines themselves, and of one's clientele, to know how to organize a variety of publications so that the best-sellers are the most attractively displayed, so that all the magazines are within the dealer's easy reach.

Should a newsstand sell sex newspapers like *Screw*? It's tempting to, since many sell well.

But some, like Kavesh, refuse to do so as a matter of principle. And many others are quite frank about the fact that they don't like the customers the skin magazines attract. "Too many of them hang around the stand reading without buying," said one dealer. "And they'll fight you if you try to chase them away. Even some of the ones who buy scare me a little. I have enough troubles without worrying about them."

Most news dealers are understandably afraid to discuss their affairs. To research this article I told most of the dealers I interviewed (though not Kavesh) that I wanted advice about opening up a stand of my own. All of them cautioned me to think very carefully before I did that. If I wanted to go into the business, they said, I should hire out as an assistant first, so that I could learn about the treacherous trade before investing my own \$6,000 in a risky enterprise. And then I should do anything—bribe someone at City Hall if necessary—to see that I got my stand in a safe neighborhood. Wall Street was the place most of them suggested. There, dealers can keep bankers' hours, sell hundreds of *Timeses* and *Posts* to genteel customers, and be home in time for a good dinner in their protected apartments. It was only when I heard how reverently most of them intoned the words "Wall Street" that I realized how frightened the people who survive by satisfying our addiction to print really are.

This summer Morris Kavesh is going to visit Elliot in Washington. It will be his seventh trip. His letters describing the wonders of the Northwest are the sort of immigrant's rhapsodies to America that one associates with Nineteenth Century writers like Carl Schurz and Jacob Riis. With his easygoing, friendly manner, his pride in his sons' success, his love of his adopted continent, Kavesh is a genuine monument on Broadway. And he stands out in especially clear relief because he's one of the few newsstand owners one meets who hasn't been battered into emotional despair by a trade that makes them easy prey for the city's most greedy, violent instincts.

—PAUL COWAN

Paul Cowan is a free-lance writer and regular contributor to *The Village Voice*.



outlets by local wholesalers. There are now between 400 and 500 agency-owned retail stands, with more being added daily—a fact which pleases publishers worried about the paucity of display outlets. But the industry already has a vivid example of what the combination can mean.

Two years ago, Henry Garfinkle decided to punish *The New York Times*. Suddenly, his Union News Co. sharply cut back its daily order of the paper. At the busiest and most important newsstands in New York City—Grand Central and Penn stations, the Port Authority bus terminal, the subways, the airports—the *Times* became somewhat hard to find. Those copies Union News did accept sold out early, their space quickly filling with other goods. In the hard eyes of 68-year-old Henry Garfinkle, the *Times* had committed the ultimate transgression—encouraged someone to compete against his empire.

At the time, the empire grossed \$150 million a year. Called Ancorp National Services, Inc., it included the Savarin restaurant chain, an industrial feeding company named Crotty Brothers and the linchpin, Union News. With 150 key newsstands in New York City, and another 100 in major transportation centers and hotels around the country, Union News was one of the nation's largest and most powerful distribution chains. It sold \$33 million worth of newspapers, magazines and paperback books each year. Moreover, Garfinkle and his family owned a large Canadian newsstand chain, Garfield News, and two magazine wholesaling companies, one in Boston, the other in Manhattan. Garfinkle's Manhattan News Co. held a virtual monopoly in its area on the distribution of major magazines to retail outlets, and until a few years ago, Greater Boston Distributors, Inc., did almost as well—lucrative businesses that brought in as much as \$20 million a year. Together with Union News, the two wholesale operations formed a system that no one really bucked: If you wanted your magazine on the Union stands in Manhattan or Boston, you hired Garfinkle's wholesalers to deliver it. And you hired them to deliver it not just to the Union stands but to all retail outlets in their territories.

Though not a magazine, the *Times* for years was distributed in Boston by Greater Boston,

guaranteeing it access to the Union stands. But the newspaper had grown dissatisfied with Greater Boston's inefficiency and impatient with its excuses. So Nat Goldstein, then the *Times*' circulation manager, signed a delivery contract with Earl Mullare, owner of the magazine distribution company in nearby Brockton, Mass. Mullare had worked for Garfinkle in Boston before buying his own agency, knew the local retailers and concessionaires and was interested in challenging Greater Boston for the newspaper distribution business. His sally into Boston was a serious threat to the empire, already fighting to hold onto its magazine business in the face of a formidable challenge from another company, Interstate News. Garfinkle responded by dumping the *Times* from Union's Boston stands. In New York, where city politics and company finances prevented even Garfinkle from just banishing the *Times*, the squeeze was put on by cutting back on deliveries.

None of this was unexpected. More than anyone, Garfinkle had learned to exploit the newsstand distribution system. He had grown up on the rough streets of the Lower East Side, and his business ethics were forged in the 'thirties, when you made your deals with whatever local mob boys had to be appeased and you used whatever clout you had to make money, even under-the-table cash. As he moved from owning one newsstand to heading a giant chain, Garfinkle purchased respectability along the way, donating to charities, acquiring politically influential friends, serving as a hospital trustee. But as a businessman, he remained the same: a small, incredibly energetic man who was both willful and ruthless. Nobody in the business was more savage in defending his borders or more remorseless in bringing publishers to heel. In 1960, he ordered his newsstand clerks to put the *Times* and the *World Telegram* under the counter until they allowed him to sell the paper for more than the cover price, then 10 cents for the *Times* and six cents for the *Telegram*. He lost that battle, one of his rare defeats.

The Village Voice vanished from Union stands a few years ago when the weekly refused to abandon its distributor, Dan List, and sign on with Garfinkle's brother-in-law, Willie Levine. List had assiduously build up the *Voice*'s sales, but when Garfinkle made his move the paper had to choose between losing 6,000 in circulation or Willie Levine. The *Voice* stood fast for six weeks, then deserted List.

Late last year, six newsstand dealers were suddenly notified that they were being evicted from stands they rented from Union News. Union, which sublets more than 100 of its 140 subway outlets and keeps the best for itself, was punishing them for violating an unwritten rule that they buy only from Manhattan News. Unhappy with shortages in Manhattan's deliveries and overcharges on returns, unable to get the magazines they wanted—"I couldn't get the popular Spanish language mags," one dealer complained, "and the hot items like *Playboy* and *Cosmopolitan* they save for their own stands and load us up with all the junk"—the dealers asked Bronx County News, the Metropolitan News subsidiary that was eyeing Manhattan News turf, to deliver to them instead. And so the cancellations. In danger of losing livelihoods they built from scratch by working 12 and 14 hour days, the newsies protested to the U.S. Attorney's office that they were victims of illegal restraint of trade. The office told them, they said, that it would make a recommendation to Washington; they'd be notified when there was a reply. There never was a reply. Only their pending suit in Landlord-Tenant court has kept the dealers from immediately being forced out.

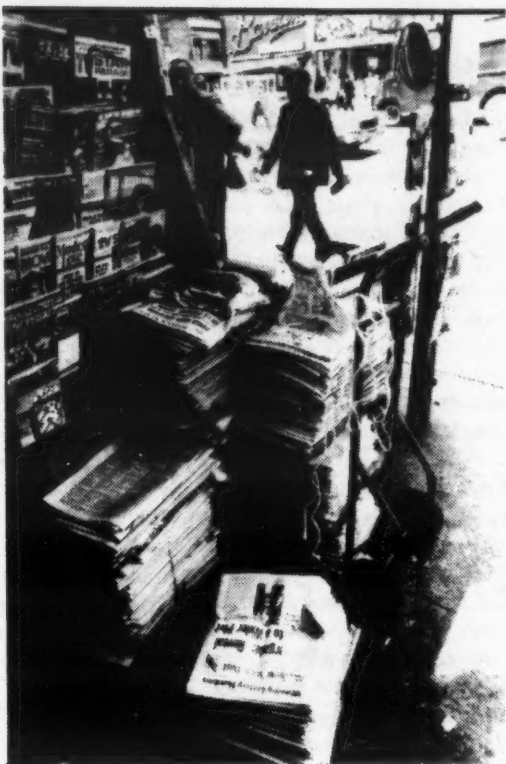
The *Times* being the *Times*—at least as sure of its power as Garfinkle was of his—it made the switch in Boston despite all this. Goldstein, who had brought the *Times*' newsstand revenues from \$5 million a year in 1948 to \$60 million, was accustomed to feuding with Garfinkle from a position of strength. In Boston, he had Mullare set up vending machines to circumvent the Ancorp boycott. In New York, pressure was brought on the agencies that rented Garfinkle his newsstand space—the Port Authority, the Penn Central Railroad, the Metropolitan Transportation Authority and the airlines—to intercede in the *Times*' behalf. Union News also received complaints from its customers and from its clerks, who were paid a percentage of sales. By early this year, Goldstein could say that sales at Union outlets were off by only 1,000 copies a day.

But if the *Times* could go the distance with Garfinkle, few other publications would even climb in the ring. Union News' near monopoly on New York City transportation facilities—Kennedy Airport excepted—gives it a power and position impossible to ignore. More than that, it gives it at times a crucial role in a publication's survival.

In 1970, Robert Farrell, an attorney who had once been publisher of the defunct Brooklyn Eagle, revived the New York *Daily Mirror*, the old tabloid competitor of the *Daily News*. Although the paper was no grand fling at journalism—it used UPI copy up front and a stable of horseracing experts in back—Union News accepted it from Farrell's original distributor and gave it display. Then Farrell made a mistake. He shifted distribution to another New York giant, Metropolitan News, whose Bronx subsidiary was beginning to encroach on Garfinkle's Manhattan News territory. Union News—as even Metropolitan had predicted—immediately dropped the paper. Stripped of its big outlets, the *Mirror* foundered in little more than a year.

The biggest names in periodicals, the mass circulation magazines, also tread cautiously with Union News. Although retail display accounts for only about 10 per cent of their sales, good





newsstand position is vital to almost all major magazines for reasons other than the revenues it brings in. Display gives them visibility, builds subscriptions and gives advertisers some barometer of public taste. In New York, where the ad agencies and corporate headquarters are, an account executive or ad manager who doesn't see the magazine in which he had a four-color layout prominently on display at Grand Central as he sprints for the 5:15 to Darien is a beast whose roar will be heard.

With that kind of leverage, Garfinkle has long been able to coerce payoffs, however disguised, out of publishers and their national distributors. In 1959, the Federal Trade Commission accused Union News of forcing publishers to pay "illegal and discriminatory" promotion allowances totaling \$1.59 million over the previous two years. Almost all the big magazines—*Life*, *Time*, *Reader's Digest*, *Newsweek*, *Look*, *The New Yorker*—were making the payments in violation of the Robinson-Patman Act, which outlaws special "considerations" to any one customer. "These unlawful promotion payments received by Union News enable it to outbid many competitors for choice newsstand locations," the FTC said. "As a result, not only is its ability to coerce more illegal allowances increased, but the other newsstand operators' ability to compete is lessened or eliminated."

The FTC suit led to the widespread use of another device, the Retail Display Allowance. The RDA is a bonus publishers may legitimately give retailers in return for favorable placement on their racks and stands. The standard bonus now is an extra ten per cent of a magazine's cover price (the retailer normally gets 20 per cent). To be legal, however, the RDA or any special payment must be offered uniformly to all retailers. In practice, only the largest outlets—the Garfinkles, the supermarkets, the airport concessionaires and the drug store chains—have the muscle to collect, and many publishers admit they don't really pay for a special display, but simply to get on the stands. "They're just kickbacks. You don't get anything for it," one publisher said.

In a solid exposé in *The Wall Street Journal* four years ago, Ron Kessler demonstrated how truly contemptuous Garfinkle was of FTC decrees. Kessler revealed that the *Times* for years had been paying Union News a \$2,500-a-month kickback,

supposedly for the right to put up display signs at Union stands. The *Daily News* was paying a similar "poster allowance"—\$500 a week, a subsequent Justice Dept. inquiry touched off by Kessler's article showed—and Kessler's own paper had from 1966 to 1968 kicked back \$500 a month. Dorothy Schiff's *New York Post* somehow escaped with a token \$50 a month. Questioned by federal investigators, Garfinkle's executives insisted the allowances were initiated by the papers and were indeed for display signs. Besides, they argued, were they to blame if the papers didn't offer similar payments to all retailers, as the law required? Newspaper officials, however, told a different tale: Union News, they said, had demanded special rebates for years, and only in the mid-'sixties had the poster allowances been contrived as a subterfuge. The U.S. Attorney's office in Manhattan decided the newspaper people were telling the truth. In 1970, the Attorney's office filed a civil damage claim against Union News asking \$85,000 in penalties. The suit hasn't been tried yet, but the government considers it a warning to Union News to cease demanding illegal payoffs.

The warning hasn't worked. Although the poster allowances ceased when Kessler broke the story, other publications are still making questionable payments to Union News. A number of executives admitted making such payments, but only on the condition that the names of their publications not be used. "We'd be called before a grand jury the very next day," one circulation manager said. An executive of a sports publication admitted it made special deals for display at the airport stands. The publisher of some detective magazine said he made bonus payments. Annual kickbacks were cited by the publisher of a teenage magazine. And an executive of a medium-sized paperback line said his firm gave a special discount to the airport stands. An executive of another paperback line was asked how his company concealed special payments from the government. "Who's gonna check the books," he replied. "It's all very simple," the former publisher of a music magazine said. "If you want to get on Ancorp stands, you call McCullough and he tells you how much he wants. Then it's your problem whether they're going to make the same deal available to other retailers."

Manhattan News Co., the wholesale-distributing arm of the Garfinkle empire, is equally despotic in setting fees. Although most circulation executives concede that Manhattan faces high operating costs—unionized truck drivers get \$300 a week—they maintain that the company charges at least four per cent more than distributors with similarly high costs. Its monopoly and its access to Union stands allows it to do so. Where another wholesaler would average 8 to 10 cents per copy on a 50-cent magazine, Manhattan takes in 10 to 12 cents—a difference of a few pennies that costs publishers a great deal. Moreover, Manhattan gets from many national distributors a guaranteed profit of \$200 per title for each publication it handles. Unlike special bonuses to retailers, the rates are legal.

A few important magazines actually lose money on distribution in Manhattan, but so long as they bear the losses and help maintain the Manhattan-Union rates, they force smaller publications that can't afford the rates to look elsewhere for survival. "We would have had to sell 60 per cent to break even," Robert Friedman, editor of the radical literary monthly, *University Review*, said after getting the Manhattan-Union rates. "If we hit 40 per cent it would be good. *Rolling Stone* sells only

50 or 60 per cent. Some people are willing to lose that money for display, but we're not in a position to do that."

Over the past year, the Garfinkle empire began to crumble. The newsstand operations held their own, but Ancorp's restaurants and industrial feeding operations, up against higher food prices, piled up deficits. In March, Ancorp filed Chapter XI bankruptcy papers. Henry Garfinkle, at 70, announced his retirement. His 27-year-old son, Myron, who had been head of Garfield News, took over. At the same time, the company's major creditor dispatched its own men to take executive posts at Ancorp. Myron and the new men promptly began to re-organize the company. One decision was to sharply reduce the number of magazine titles on the stands, dropping more than a hundred marginal publications. As [MORE] went to press, the list of titles to be jettisoned was still being prepared. And if the new men are to be believed, any possibly illegal payments formulas they find will be ended. "We're professional, modern businessmen, with, I think, some social consciousness," one of the new executives said. "The days of that little fuck Garfinkle tyrannizing publishers at the slightest whim are over." Nat Goldstein, who saw the *Times* restored in full measure to the Union stands when the new management took over, would agree. "They seem to be a little more liberal over there now," he said.

With giant wholesalers such as Manhattan News using up most of the available display space, small publications—those that sell only a few thousand copies—find themselves in a serious crunch. Few of them can afford the rates of the major

First Rough Draft

by CHALMERS M. ROBERTS

"No American journalist has been so close to so many big events as Chalmers Roberts. His journal is full of new information on the domestic politics and foreign affairs of the post-war period. Perhaps even better, it is a wonderfully evocative account of the age of innocence before the war."—Joseph Kraft

"The most remarkable parts of this admirable book are Roberts' reflections on the craft of journalism."—*Washington Monthly*

Award-winning veteran foreign affairs reporter for the *Washington Post* reveals never-before-told stories of secret deals and deeds that changed world history. "In an era when suppression and censorship hover over the news, Chalmers Roberts has given us a case book of what tough-minded reporting can mean to a free society."—Marquis Childs

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wholesalers, even if they can persuade the companies to take them on. The alternative is to depend on secondary distributors for survival. These are firms with only a few trucks that deliver local publications and those national titles too small and unprofitable to interest a big wholesaler. Without them, community newspapers, small intellectual journals, religious and ethnic publications and much of the underground press couldn't publish.

At their best, secondary distributors operate by cultivating retailers in those areas where their publications might be expected to sell. *The Village Voice* has thrived by using secondary distributors outside Manhattan. Similarly, Harvey Marshak, a young publisher's rep, has been using secondaries to give highly selective display to his titles, concentrating *Fiction* magazine, for example, in book stores and *University Review* in college book shops. Perhaps the best example is William DeBoer, a splendid old veteran who for 30 years has almost singlehandedly kept alive a variety of small intellectual magazines no other distributors would handle. DeBoer began with *Common Sense*, later distributed *Commentary* and *Partisan Review*, and now carries 23 titles, many of them university publications such as *Antioch Review*. Using a station wagon, DeBoer each week makes personal visits to bookstores and other retail outlets in New

York to make sure his titles are properly displayed. And he cultivates retailers by offering them a 30 per cent discount rather than the standard 20 per cent and by diligently pasting up advertising signs or the covers of his periodicals at bookstores and on newsstands.

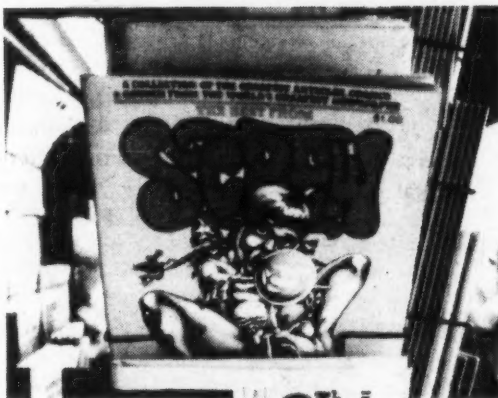
But DeBoer is the exception. Few small distributors give that kind of service. Most are only mediocre, and often they just can't do the job they promise. Last year, the radical New York newspaper, *Ace*, decided to abandon futile efforts at self-delivery and hired a company called Telstar to distribute it. Mike Acierno, who owned both Telstar and a large newsstand in lower Manhattan, asked *Ace* to increase its print run from 3,000 to 8,000 an issue, promising to get the papers displayed. In the end, he never put out more than a few hundred, and the paper died. It joined a long list of other publications which succumbed to the same disease, inept distribution.

Suggestions to improve the health of the publishing industry by improving the distribution system have made little headway. The latest proposal now being considered by several publications that belong to the Committee for the Diversity of the Press—among them, *The New Republic*, *Ramparts*, *The Progressive*, *The Nation* and [MORE]—is

to offer themselves in a package deal to "alternative distributors." These are small companies, formed at the height of the antiwar movement to find newsstand space for local radical publications no one else would distribute. The head of the best of them, Jim Kennedy of Detroit, has proposed expanding the handful of remaining alternatives into a network that would now handle small national publications, giving them the kind of pinpoint placement they need to reach their natural audiences.

Publishers of larger magazines and paperback lines envision no such alternative, but hope the present system can be improved through a combination of government suasion and technology. The government has quietly sought to encourage local wholesalers to compete outside their territories, with some small success. As for technology, the number of computers in the industry is increasing, and Bantam's sales expert, Ron Bush, sees a day when every retail cash register will be wired into a central computer that would give distributors instant data on what is selling and where. But all present proposals are either tentative or utopian, and the disturbing truth is that for the foreseeable future, the publishing industry will continue to be hampered by a distribution system that works well for only the very few.

Where The Boys Are



Organized crime's once substantial interest in newspaper and magazine distribution has waned markedly in recent years, but the mob isn't out of the business entirely. According to Federal and local investigators, Mafia captain Anthony (Tony Ducks) Corallo acquired a secret interest in the GI Distributing Co. in the late 'sixties when the firm began distributing pornographic books. Corallo, police say, has a long history of involvement with distributors and was once an official of the delivers' union in New York. He is now in prison for bribery and extortion in the case of former New York City Water Commissioner James Marcus. Al Druss, the bluff, friendly man who runs GI, dismisses the mob talk as "nonsense," but police insist that Corallo's associates keep a close watch on the firm.

Among other underworld factions that have muscled into distribution in the last few years is Brooklyn's Gallo family. In the late 'sixties, the *East Village Other* was being distributed by a hip kid who delivered the paper with his station wagon. At the same time, another underground paper, *Rat*, was in the hands of a company called B&M, run by John Priola, Charlie Bruno and Joe Mafia. In time, *EVO* began to have some trouble with its newsstand displays. Copies would end up in puddles, or be mysteriously slashed.

Since *EVO* wasn't happy with its placement on the stands, or with the number of stands that accepted it in those days, it was open to offers for better distribution. B&M, which some *EVO* people suspected of being responsible for the defacings, made such an offer. It got the contract, and for a while it did a job. Sales increased and *EVO*'s stock soared. B&M did well, too.

Then, about three years ago, Al Gallo, brother of Crazy Joe, decided he wanted to get into the distribution business. Gallo contacted *EVO* and offered to increase sales and pay it more per copy. *EVO*'s business manager, Joel Fabricante, agreed. The Gallos didn't own any distributorship but they suggested that Fabricante contact Archie Gordon, who ran Gregg News, a small company located in

Gallo territory. He did, and a deal was made. The arrangement was that the Gallos would take a cut of the sales—a sort of publisher's representative fee—in return for insuring that Gregg News did a good job. At Gallo's suggestion, Fabricante also tried to persuade some other B&M clients to switch to Gregg News, too, but without success.

Soon thereafter, Fabricante went into hiding, and the rumor was his life had been threatened. B&M was refusing to relinquish *EVO* quietly. Although Priola, Mafia and Bruno were hard-working men who did not belong to the mob, they let it be known that they "knew people" who would back them. Gallo was undeterred. He sent some associates to visit his rivals. The associates came back to report that everything was cool. One of the B&M principals had a friend with whom one of Gallo's boys had done a stickup. Everyone involved was reasonable. It could all be worked out.

It was. Gregg News got the *EVO* business and from that day, *EVO*'s sales began to decline, as Gregg News concentrated on fantastically profitable sex papers to the point of not putting *EVO* on many newsstands that once took it willingly. The maltreatment contributed significantly to *EVO*'s demise.

The Gallos did nothing to stop Gregg from running the paper into the ground because their interest soon shifted to sex sheets, particularly the

richest and best of them, *Screw*. "Three guys came one day," recalls editor Al Goldstein. "One guy was always watching the doorway. Another said he had somebody he wanted me to meet. I got really excited. I grew up in Brooklyn as a Jewish faggot intellectual and these guys shot guns. Meeting them was fulfilling a fantasy. They took me to President Street [Gallo's headquarters] and there was Al Gallo. We spent most of the time talking about his hair transplant."

Gallo offered to take over *Screw*'s distribution. Goldstein said he was partial to the idea—his own distributor was nervous about being arrested—but wanted to think about it. Gallo said fine. As Goldstein tells it, soon afterwards three strangers came to the *Screw* office and made Goldstein a different offer. He said he'd consider it, then told Gallo. "Those faggot bastards, I'll kill them," Gallo supposedly shouted. "I'll wipe the streets with them." The three men, Goldstein learned, worked for Gallo's arch rival, Brooklyn Mafia boss Joseph Colombo. (Colombo, later lost most of his faculties when he was shot in the head at an Italian-American civil rights rally in Columbus Circle; Joey Gallo was murdered at Umberto's Clam House in retaliation.)

Al Gallo told Goldstein to forget the Colombo overture and sign with him. Goldstein did. "Gallo then got guys in black suits who had never worked to deliver *Screw* in black Cadillacs," Goldstein says, with some exaggeration. "They were bossy, tough with the news dealers. They had no background in distribution. They were clods." Obviously, these "distributors" had to go. *Screw* was turned over to Gregg News, but it, too, did such a poor job that the Gallos decided to set up yet another distributing company, Astro News. The new firm now handles almost all the sex papers in New York and, with a subsidiary, distributes a number of less racy titles, among them *Backstage*, *Rock* and *Monster Times*. Astro News does not carry the paperback version of *The Gang That Couldn't Shoot Straight*.

—J.L.

(HELLBOX)

continued from page 2

to pressures from the American Trial Lawyers Association, a staunch opponent of such reform.

Nader countered with a vitriolic rebuttal, far longer than the original article, in which he attacked not only Young but also David Sanford, *The New Republic's* managing editor and the top man while editor-in-chief Gilbert Harrison was on vacation. The *contretemps* continued through two successive issues, ending only after Harrison's return. Nader met with both Harrison and Sanford and managed to extract what he has characterized as a "retraction"—a "last word" written by Sanford stating that Young had neither said nor implied that the Nader position on no-fault had been determined by a grant from the Trial Lawyers to the Center for Auto Safety, a Nader offshoot. (The grant had in fact been solicited but was later declined.) Sanford says the final note was "a way of getting Ralph out of our hair."

Though it was Sanford, working under James Ridgeway, who had nailed the GM gumshoe, he and Nader have battled frequently in recent years. They have fought over Sanford's editing of Nader's columns—to the extent that Nader not long ago relieved him of that task. During the no-fault clash, Nader remarked to Lowell Dodge, director of the Center for Auto Safety that, "if Gil Harrison had been in town, none of this would have happened." Subsequent events appear to bear him out. Earlier this year, Don Erickson, then executive editor of *Esquire*, commissioned a piece proposed by Sanford's literary agent. In March, Sanford submitted to *Esquire* a 9,000-word article attempting to deflate the Nader "myth." "It comes as no news to the bored that Ralph Nader has become a bore," read the lead. "He virtually alone among men both famous and ordinary is thought to be unmoved by the basic (or is it base?) urges of man—sex, money, fame, power. What turns him on is the public interest. A good part of Nader's prominence has to do with the stereotype of him as a monk living alone in a furnished \$85 room . . . appropriating for personal use only \$5,000 from an annual income of \$200,000."

Persisting in that vein Sanford proceeds to cast aspersions on the integrity of his former friend, an integrity he says has been "unchallengeable, at any rate unchallenged." Among Sanford's contentions: that Nader was trading Ford stock at the time his book on GM's Corvair was published; that there is some reason to suspect he is living lavishly in a \$100,000 Bancroft Place house only nominally owned by his less successful brother; and that he is "secretive beyond any conceivable need to be" in failing to name the donors to his people's movement, Public Citizen, Inc., or to account for the way the contributions are allocated. "The oddest thing about Nader," writes Sanford in connection with this latter point, "is that despite the way he conducts his personal life, he has become in so many ways very much like the corporations which he sees as his enemies."

Erickson liked the piece and sent it back to Sanford for revisions to improve its structure and clarity. Instead of a finished manuscript, however, he received a letter from Sanford withdrawing the effort. Sanford's decision not to publish it was made after consultation with Harrison, who, though he refused to read the article, had three objections. According to Sanford, he felt most importantly that

"one ought to devote one's time to writing for *The New Republic*" (a curious argument since the piece was already written). Secondly, the editor-in-chief (who is also the magazine's owner) thought that an attack on Nader appearing under the byline of his managing editor might be construed as an attack by *The New Republic*. "He said that the time wasn't right for that," recalls Sanford. And then also, there was the matter of the syndicated column, which though distributed at a loss in the beginning, was finally bringing in some money. Nader might decide to take his column elsewhere.

Sanford says that while Harrison never threatened to fire him, he would have felt obligated to resign had he insisted on publishing the piece. He claims he withdrew it "ungrudgingly." Nevertheless, he seems eager to share his research and recently showed the draft to a reporter working on a piece about Nader for the *National Journal*. Word has obviously gotten back. According to Sanford, Nader recently complained over lunch with Harrison and *New Republic* publisher Robert Myers that their managing editor was imparting "scurrilous information" about him to reporters. He suggested that Harrison and Sanford have a talk.

—T.P.

Watergate

"This newspaper couldn't care less whether President Nixon eventually is shown to be [implicated in Watergate] and impeached, or whether Attorney General Mitchell goes to jail for umpty-ump years, or what happens to any of the other educated jackasses involved in this insane and crazy and completely stupid caper.

"BUT THE QUESTION OF WHAT HAPPENS TO THE UNITED STATES IS SOMETHING THAT AFFECTS EVERY ONE OF US AND, FOR ONE, THIS NEWSPAPER PUBLISHER IS SICK TO DEATH OF THESE SILLY EDITORS AND PUBLISHERS AND TV COMMENTATORS AND RADIO TALKMASTERS WHO ARE BUSY FOULING THEIR OWN NEST—AND DESTROYING THE UNITED STATES IN THE PROCESS. IT IS TIME FOR THEM TO SHUT UP AND START TURNING THEIR ATTENTION TO MORE IMPORTANT MATTERS."

—William Loeb in the *Manchester (N.H.) Union Leader*, May 14

Newsman Indicted

Just after sunrise on April 17, three single-engine planes cruised low over the besieged Indian camp at Wounded Knee, South Dakota. Before startled U.S. marshals and FBI agents could read the planes' registration numbers, nine parachutes carrying a ton of food and medicine had settled, well within the borders of the "independent Oglala nation." On board the disappearing planes were four veteran anti-war activists, three professional pilots, and reporter Thomas Oliphant of the *Boston Globe's* Washington bureau.

Oliphant's first story on the airdrop appeared the next day under the head, **GLOBE MAN ON INDIAN AID FLIGHT**. The piece indicated that "seven young men" had carried out the operation and that, "A *Globe* reporter was permitted to

accompany the men . . . on condition that their names not be used."

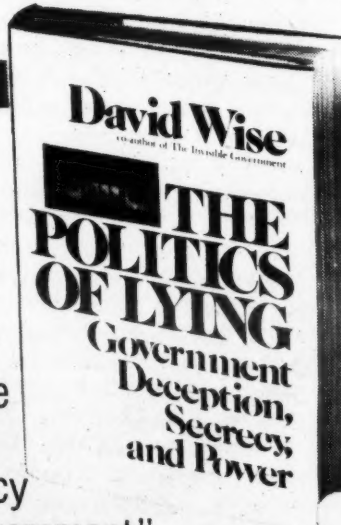
On April 20, Oliphant filed the second part of his story outlining the long, complex preparations for the Wounded Knee airlift. That day the FBI issued a warrant for his arrest and on April 23 he surrendered to U.S. marshals in Washington. Two weeks later, on May 7, the federal grand jury in Sioux Falls, S.D., issued a three-count indictment against Oliphant for violation of federal anti-riot statutes.

Oliphant is accused of "willfully, knowingly, and unlawfully committing an act to obstruct, impede, and interfere with U.S. marshals and agents of the FBI who were engaged in the lawful performance of their duties during the course of a civil disturbance." The second count is for "conspiring, combining, and confederating" to commit the above offense. The third count, a violation of the Rap Brown clause used in the Chicago 7 case, charges Oliphant with crossing state lines with intent to incite a riot. Together, the three felony counts carry a maximum penalty of fifteen years and \$30,000.

Specifically, the indictment asserts that Oliphant was a full-fledged participant in the operation, not merely an observer. Item 3 under "Overt Acts" charges that "Thomas Oliphant had in his possession \$10,000 to be used to obtain aircraft, food, medicine, and other supplies." Oliphant emphatically denies participation. "I went out to South Dakota to cover a news story. That's what I thought I was doing, and that's what I did," he says. Government officials have gone on the record far beyond the language of the indictment. Richard Hellstern, the deputy assistant United States Attorney General who headed the Justice Department team at Wounded Knee, claims, "There's plenty of evidence to show that Oliphant is, in fact, the organizer of the airdrop."

In fending off the government's legal and polemical assault Oliphant is getting full backing from the *Globe*. Editor Tom Winship has given him carte blanche in designing his defense and the paper is paying for Oliphant's lawyer, E. Barrett Prettyman. (Prettyman defended reporters Paul Pappas and Paul Branzburg and is widely regarded as one of

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the finest First Amendment lawyers in the country.) "As far as the *Globe* is concerned," Winship says, "Tom Oliphant was covering a legitimate news story for the paper. We are defending his right to do so."

At this stage, Oliphant and Prettyman are extremely circumspect in talking about the case. "Every move we make is setting precedent," Prettyman explains. "We want to come out of this with a clear set of procedures for someone to follow in similar circumstances." Prettyman has called Hellstern's charges that Oliphant led the airlift "outrageous" and has indicated that they may be grounds for legal action against the government. "We're hoping that this case never comes to trial," he adds. Before Oliphant's extradition hearing, scheduled for May 24, Prettyman will file several motions to quash the indictment.

If the case does go to trial, Oliphant will be facing the most serious charges yet leveled against a reporter, and in an extremely polarized atmosphere.

Polls taken in South Dakota show a bitter hostility toward the militant Indians who occupied Wounded Knee. One reporter who recently returned from the scene says, "It's like the deep south 15 years ago: the whites love 'their' Indians, but when the Indians get uppity, it's time to reach for the shotgun." For Oliphant, a trial would pose the agony of clearing himself without helping to implicate his companions on the flight whose names he pledged not to reveal.

For all reporters the case raises the spectre of criminal indictment, not merely subpoenas, for witnessing any illegal or potentially illegal activities. Jack Landau of the Reporters Committee for Freedom of the Press calls the Oliphant indictment "an awful and threatening case. The key tool of a reporter is association. This type of indictment is aimed at making many associations impossibly dangerous."

—LENNY GLYNN

(LETTERS)

Two Points

I read and enjoy [MORE] regularly, but feel impelled to comment on two bits of publishing in two recent issues—one article and one classified ad.

The article was your offhand evaluation of Lawrence Spivack's "Meet The Press" (Feb., 1973) which you characterized—I think rather unfairly—as a convenient public relations gimmick for generating quotes for network news shows on Mondays following the MTP broadcast. I've been a regular viewer of "Meet The Press" for years, and find the questions and guests highly interesting and often more enlightening than either news analysis on comparable topics or typical network TV interviews of the same people. As a matter of fact, my feeling is that "Meet The Press" is really performing a service that is neatly circumvented by the standard "press conference" format—which in reality is no conference at all, but rather a presentation dictated by the interviewee and meekly fulfilled to accomplish his object on his terms. A big point was made of the fact that Republicans had supplied questions used on a show to interrogate a Democrat. I find this rather amusing, since much good solid reporting consists of ferreting out competitors who are motivated to point out what is wrong with the position of their antagonists. In fact, if anything, this seems to be the main tactic in breaking the Watergate affair wide open: the Haldeman-Erichman side of the White House staff was pitted against the Mitchell-Dean side, with each side giving crucial information about the activities and involvement of the other.

The ad in question is "HANGOVERS GET YOU DOWN?" in the May issue. Without so much as picking up a phone, I would surmise that the "bland tablets [that] soak up alcoholic poisons" are nothing more complicated than activated charcoal. I don't know how many reporters have chronic hangover problems, but those who do might like to know a couple of things about using activated charcoal to counter them. First, the activated charcoal has to be taken along with the alcohol so that both arrive in the drinker's stomach at the same time. By my calculations based on the scientific report alluded to in the ad (I believe I know which report the claim is based on) the drinker has to down two large tablets or capsules of activated charcoal for each standard shot (5/8th ounce) of whiskey consumed. For a heavy drinker, this involves eating an awful lot of charcoal. Of course

for \$5.00—the amount specified in the ad—you should be supplied with enough charcoal to sink a battleship, considering how cheap it is. In any drugstore, activated charcoal (primarily intended for use as an "anti-flatulant" and "anti-poisoning" remedy) can be obtained for \$1.25 for 50 (5-grain) tablets, made by the REQUA MANUFACTURING CO., INC. in the Bronx, New York. That's list price; tablets are often available for less.

Maybe everybody's best interest would be served if the operator of that Huntington Station post office box selling flatulent charcoal could be invited to appear for questioning as a guest on "Meet The Press."

Personally, I think that [MORE] is obliged to give its readers more on both topics.

—Roger Field
WINS
New York, N.Y.

Charterhouse

Chris Welles' article, "Blockbuster Mania" (MORE—April, 1973), which I found interesting and useful, describes me as "an independent packager selling projects to publishers in return for a cut of the profits." I have not ever spoken with Mr. Welles about my publishing activities and so I wonder what his basis is for this information. I am the president and publisher of Charterhouse Books, Inc., which is a small, independent house publishing about 25 trade titles a year that are distributed via David McKay. We are by no stretch of the imagination "an independent packager" selling projects hither and yon, as Welles implies.

—Richard Kluger
Publisher
Charterhouse
New York, N.Y.

Chris Welles replies: Kluger's complaint is primarily one of semantics and I concede that to call him a "packager" instead of a "publisher" belies the new realities of book publishing I described at the end of my piece. My intent was to differentiate Kluger's independent operation, which is devoted entirely to creating books and which employs an outside distributor, from the large, fully integrated concerns which traditionally have dominated publishing.

(CLASSIFIEDS)

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200 years later, the government they fought to establish will be teaming up with the corporations to spend a lot of money to convince us that nothing very radical happened back then. The Bicentennial planners will try to reduce the Revolution to a marketable style that reinforces their interest in a pacified America.

Who are the Tories of today? We think its rather clear.

The Peoples Bicentennial Commis-

So who are the Tories of today?



sion is a non-profit group of non-sectarian people. We want to put the American Revolution back to work, and we think the time to do that is now. We're helping to plan a peoples campaign for the Bicentennial. A grass roots movement that can focus all of our energies into a force for decisive change in the 1970's.

The Bicentennial is our chance to raise the same questions that people like Molly Pitcher and Tom Paine raised 200 years ago. They joined together and made history. We can do the same, and make the most exciting of times happen again.

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I'm using this coupon to renew my current subscription. RENEWAL ☐

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